

Marcus A. Manos
Member
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March 23, 2005

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Charles L.A. Terreni
Chief Clerk/Administrator
The Public Service Commission of South Carolina
Synergy Office Park
101 Executive Center Drive
Columbia, South Carolina 29211

**Re: IN RE: DOCKET NO. 2003-273-E
Aiken Electric Cooperative, Inc.-Complainant/Petitioner v.
South Carolina Electric & Gas Company-Defendant/Respondent**

Dear Mr. Terreni:

Charleston
Charlotte

Enclosed for filing with your office are the original and 11 copies of the following documents in the above referenced matter.

Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach

1. Complainant's Aiken Electric Cooperative, Inc.'s Memorandum In Opposition To Respondent South Carolina Electric & Gas Company's Motion For Summary Judgment with Appendix of Exhibits and Testimony; ✓
2. Motion To Strike Portions Of The Testimony Of Grover C. Croft, Jr.; ✓
3. Motion To Strike The Testimony Of Catherine Taylor; ✓
4. Motion To Strike Portions Of The Testimony Of Robert D. Hazel; ✓
5. Motion To Strike Portions Of The Testimony Of D. Russell Harris; ✓
6. Motion To Strike Portions Of The Testimony Of Hubert C. Young; and ✓
7. Motion To Strike Portions Of The Testimony Of James W. Hammond, III. ✓

Please return a clocked-in copy of each to me in the envelope provided.

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Attorneys and Counselors at Law

Charles L.A. Terreni
March 23, 2006
Page 2

Thank you for your consideration.

With best regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'MAM', with a large, stylized loop at the end.

Marcus A. Manos

MAM/hjr
Enclosures

cc encl.: Mitchell M. Willoughby, Esquire/Randolph R. Lowell, Esquire
Shannon Bowyer Hudson, Esquire
Wendy B. Cartledge, Esquire
Patricia Banks Morrison, Esquire
James B. Richardson, Jr., Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2003-0273-E

IN THE MATTER OF

AIKEN ELECTRIC COOPERATIVE, INC.,

Complainant,

vs.

SOUTH CAROLINA ELECTRIC & GAS
COMPANY,

Respondent.

CERTIFICATE OF SERVICE

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The undersigned certifies that a copy of **Motion To Strike Portions Of The Testimony Of Grover C. Croft, Jr., Motion To Strike Testimony of Catherine Taylor, Motion To Strike Portions Of The Testimony Of Robert D. Hazel, Motion To Strike Portions Of The Testimony Of D. Russell Harris, Motion To Strike Portions Of The Testimony Of Hubert C. Young, and Motion To Strike Portions Of The Testimony Of James W. Hammond, III** has been served upon counsel of record via electronic mail and placing a copy of the same first-class postage prepaid in the United States Mail on the 23rd day of March, 2006, to the addresses shown below.

Mitchell M. Willoughby, Esquire/Randolph R. Lowell, Esquire
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NEXSEN PRUET ADAMS KLEEMEIER, LLC

Columbia, South Carolina

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BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2003-273-E

IN RE:

Aiken Electric Cooperative, Inc.,

Complainant,

vs.

South Carolina Electric & Gas
Company,

Respondent.

**APPENDIX OF TESTIMONY AND
EXHIBITS TO THE RECORD CITED IN
AIKEN ELECTRIC COOPERATIVE,
INC.'S MEMORANDUM IN
OPPOSITION TO SCE&G'S MOTION
FOR SUMMARY JUDGMENT**

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1. Grover Croft Deposition Designation Excerpts filed by Aiken Electric Cooperative
2. Pre-filed Amended Rebuttal Testimony of James Bell
3. Pre-filed Direct Testimony of James Bell
4. Pre-filed Direct Testimony of Gary Stooksbury
5. Exhibit W to Amended Rebuttal Testimony of James Bell; Grover Croft October 9, 1970 Memorandum
6. Exhibit T to Amended Rebuttal Testimony of James Bell; A. J. Perrone September 17, 1970 Letter to James Bell
7. Exhibit V to Amended Rebuttal Testimony of James Bell; Grover Croft March 18, 1971 Letter to James Bell
8. Exhibit Q to Direct Testimony of James Bell; Barney Snowden June 7, 1971 Memorandum
9. Exhibit U to Amended Rebuttal Testimony of James Bell: A. J. Perrone September 17, 1970 Memorandum
10. Complaint, Aiken Electric Cooperative, Inc. vs. South Carolina Electric & Gas Company, Docket No. 2003-273-E

11. Exhibit E to Gary Stooksbury's Direct Testimony; Gary Stooksbury November 7, 1997 Letter to Thomas Arthur
12. Exhibit F to Gary Stooksbury's Direct Testimony; Don Harris November 8, 2000 Letter to Gary Stooksbury
13. Mike Cherry Deposition Excerpts, pages 51-52
14. Pre-filed Direct Testimony of William Harbuck
15. Blue Ridge Electric Cooperative, Inc. v. Duke Power Co., PSC Order No. 97-819 (September 19, 1997)
16. Blue Ridge Electric Cooperative, Inc. v. Duke Power Co., PSC Order No. 97-916 (October 24, 1997)
17. Pre-filed Rebuttal Testimony of Gary Stooksbury
18. Pre-filed Direct Testimony of Grover Croft
19. In re: South Carolina Electric & Gas Co., v. Palmetto Electric Co-op, Inc., Order No. 2003-635 (P.S.C. 2003)
20. Exhibit X to Rebuttal Testimony of Gary Stooksbury; Robert Hazel July 12, 1974 Letter to James Bell with Agreement attached

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2003-273-E

IN RE:

Aiken Electric Cooperative, Inc.,

Complainant,

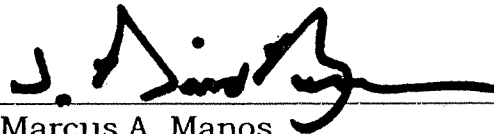
vs.

South Carolina Electric & Gas
Company,

Respondent.

DEPOSITION DESIGNATIONS OF
GROVER CROFT

Pursuant to Regulation 103-871, we are filing deposition designations of Grover Croft in the above matter.



Marcus A. Manos
J. David Black
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Attorneys for Complainant Aiken Electric
Cooperative, Inc.

February 13, 2006.

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2003-273-E

IN RE:

AIKEN ELECTRIC COOPERATIVE, INC.,

Plaintiff(s),

vs.

SOUTH CAROLINA ELECTRIC & GAS COMPANY,

Defendant(s).

D E P O S I T I O N

WITNESS: GROVER CROFT

DATE: Thursday, January 12, 2006

TIME: 10:01 a.m.

LOCATION: South Carolina Electric & Gas Company
108 North Cedar Street
Summerville, South Carolina

TAKEN BY: Attorneys for the Plaintiff

REPORTED BY: SHERI L. BYERS
Registered Professional Reporter

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1 looking at the line that crosses the other side of the
2 road to the Hunter-Kinard-Tyler school, can you recall
3 that specific line serving anything on July 1st, 1969,
4 as distribution?

5 A. I'd have to say that everything served off of
6 it was distribution, that carried -- it served a -- the
7 load in small, small towns around this -- around this.
8 It was used to distribute to these towns.

9 Q. Okay. So the line you are talking about was
10 distributing to a town, perhaps to Springfield or to
11 Norway; would that be fair?

12 A. Yeah, that's right.

13 Q. But the section between Norway and
14 Springfield, was it distributing in between that?

15 A. I don't know. Not to my knowledge.

16 Q. Okay. So to the best of your recollection?

17 A. To the best of my recollection.

18 MR. BLACK: Okay.

19 (PLF. EXH. B, Map, SCE&G 0143, was marked for
20 identification.)

21 BY MR. BLACK:

22 Q. Mr. Croft, are you familiar with that
23 document?

24 A. Yes, sir.

25 Q. So the record is clear, we're going to mark

1 Q. Okay. There's also another marker on there,
2 I believe it's 111 feet to the west of that line.

3 A. Right.

4 Q. Is it your opinion that that would be the
5 same?

6 A. Yes.

7 Q. Okay. And looking at SCE&G's line, do you
8 see any service spurs off of that?

9 A. No, sir.

10 Q. Okay. Mr. Croft, I'm going to ask you to
11 look at another map, SCE&G 144 is the Bates number.
12 It's another blow up of the territory.

13 We'll mark that as Exhibit C, Madame Court
14 Reporter.

15 Would you identify SCE&G's line on there for
16 me, sir?

17 A. Again, it's on the south side of the road.

18 Q. And Aiken Electric's line, is it on the north
19 side of the road?

20 A. Yes, sir.

21 Q. Okay. And looking at Aiken Electric's line,
22 would it be fair to say there's approximately five to
23 six service spurs off of that line?

24 A. If you're counting this as more than one,
25 yes.

1 A. Yes.

2 Q. Okay. Are you aware of Aiken Electric ever
3 agreeing that this 46 kV line that we're all talking
4 about today was a distribution line?

5 A. Ever doing what?

6 Q. Did Aiken Electric ever agree with your
7 contention that this 46 kV line was a distribution
8 line?

9 A. No, sir.

10 Q. Okay.

11 A. Can I add one point to that last question,
12 please, sir?

13 Q. Go right ahead, Mr. Croft.

14 A. I said no and I had reference to the -- to
15 saying no in our negotiations. I felt that they agreed
16 to it as a distribution line when they signed the final
17 map and signed the mapping map that they had, you know,
18 there was an opportunity there that -- that was the
19 point that if they weren't going to agree to it, it
20 should have been addressed.

21 Q. Okay. So if I understand you correctly,
22 throughout the negotiation process, Aiken Electric
23 never agreed that that 46 kV line carried a corridor
24 other than when they signed the map, the mylar map at
25 the end; is that correct?

1 suppliers were marking their lines in the territory?

2 A. Mr. Bell's concern was territorial rights, as
3 I understood it. By signing off on the map showing the
4 lines, that he was possibly going to give up some
5 rights of some kind. He could not. He was simply
6 saying that the lines were accurate. And we gave him
7 an -- and we were pushing for our line, for the people
8 that we served a mutual area to make sure the map was
9 accurate not only with their lines but with our lines,
10 and they did that. They looked at both lines. We
11 looked at their lines to make sure that when we signed
12 off on it, we were signing off, of course, for
13 everything in the county.

14 Q. How would Jimmy Bell have known that you were
15 referring to other lines other than SCE&G's lines from
16 that letter?

17 A. I don't know.

18 MR. BLACK: Okay. Let's mark that as Exhibit
19 J. And Exhibit J will be the documents actually Bates
20 with the SCE&G 631.

21 BY MR. BLACK:

22 Q. Mr. Croft, while he's making that copy, we'll
23 talk a little bit more about the document. If you
24 think you need the document, I'll certainly pause and
25 we can look at it again. But it referred mylar films,

1 that -- where they had lines, they didn't have to show
2 them.

3 Q. Okay. And that would make sense because it
4 would appear that the real issue in documenting the
5 lines would be the lines that appear next to the
6 cities, towns where SCE&G really is trying to get that
7 growing room; is that correct?

8 A. That wasn't what we were doing. We were
9 carrying out the commission's order that all suppliers'
10 lines would be shown on these maps before we started
11 negotiations. We didn't have any choice. It was the
12 commission's -- the commission was responsible for
13 territorial assignment beyond all suppliers' corridor
14 rights. They assigned all areas that were more than
15 300 feet from any existing line. There is no way we
16 could have worked territorial assignment without
17 showing all the lines.

18 Q. Okay. So the maps show all lines, that's
19 correct?

20 A. All lines.

21 Q. And it would have been far more difficult to
22 show part of the lines because you would have to go in
23 and negotiate and say, well, why is that line not
24 there, et cetera, right?

25 A. Oh, it would be endless. It was bad enough,

1 think we talked about the same thing. I cannot sit
2 here and point to a point that we have a service off of
3 that line. But to me, I think the fact that I can't do
4 it doesn't make it anything still but a distribution
5 line.

6 Q. Certainly connects two areas together,
7 though, doesn't it?

8 A. Connects two areas together?

9 Q. Yes, sir. Earlier today we were talking
10 about how the line ties Springfield together with
11 Norway.

12 A. It distributes power along the line as it
13 goes from there to there, it distributes power to this
14 place and this place and that place over there. In the
15 sense of joining, going from one to the other, you
16 can't interpret that in electrical terms as connecting
17 them together.

18 Q. What other purpose does the line serve other
19 than running from Springfield to approximately the town
20 of Norway, Mr. Croft?

21 A. It's sitting there ready for us to serve any
22 customer we get the opportunity to serve off of it. It
23 is a distribution line to be served, to be used to
24 serve a customer at any time that the situation arises.

25 Q. So for example, as a customer may pop up in

1 the future after territory assignment, then you could
2 serve them; is that correct, Mr. Croft?

3 A. Oh, yeah. We could serve it now. I mean, we
4 could serve it -- yes, sir.

5 Q. Do you see in the fourth paragraph where it
6 says, "Also, there may be a difference of opinion over
7 which of these lines are and are not distribution
8 lines. What I am saying to you is that we frankly, at
9 this juncture, do not know which 25 kV to 48 kV lines
10 are transmission and which may be considered
11 distribution."

12 A. Again, I think he's speaking for himself.

13 Q. Okay. But earlier you stated that he was
14 authorized to speak on behalf of SCE&G?

15 MR. WILLOUGHBY: Object to the form. That's
16 not what he said.

17 THE WITNESS: No, no. C.J. Fritz was
18 authorized to speak for SCE&G. But he said that he had
19 consulted -- earlier when you asked me that, he had
20 consulted with SCE&G and the others and -- let me make
21 my point. What he's saying applies to his system and
22 not to ours.

23 BY MR. BLACK:

24 Q. But on the second page, does he not say that
25 he's authorized to speak on behalf of SCE&G?

1 A. That's right.

2 Q. But in this letter you've acknowledged that
3 some 46 kV lines may not have a corridor; is that
4 correct?

5 A. That's what it says.

6 Q. Okay. Thank you, Mr. Croft. I appreciate
7 your being candid with me.

8 Who was Mr. -- you've told me Mr. Fritz was
9 the person that you reported to; is that right?

10 A. Yeah. He is senior vice president
11 administration.

12 Q. And H.G. Boylston, who was that, Mr. Croft?

13 A. He was in the -- he worked for Allen Mustard.
14 He was in the rates and commercial department.

15 Q. D.R. Tomlin?

16 A. He was manager of distribution, operations
17 for the northern division. Probably for the company by
18 then.

19 Q. And B.M. Smith?

20 A. B. Marion Smith was the young man that headed
21 up the industrial development group. A.J. Perrone,
22 we've already discussed, he was in charge of the
23 engineering services section, which had the drafting
24 section and the mapping.

25 Q. So engineering services stated that

1 Mr. Thompson will see fit to approve the map as is
2 after you and he has had a chance to study it."

3 Q. Mr. Bell called you about some mylar maps, is
4 that what this was regarding?

5 A. Yes. Yes, sir.

6 Q. And the second paragraph, would you mind
7 reading that into the record?

8 A. "The fact that the line in question is shown
9 on the map, in my opinion, simply means that the line
10 exists -- does exist. The service rights on this line
11 will have to be determined in our negotiations."

12 For the life of me, I don't know which line
13 this actually applies to, but all lines shown on the
14 maps had corridor rights that was not -- you know, that
15 was not negotiable or -- and the fact that the line was
16 shown on the map had to carry these rights. "The
17 service rights of this line will have to be determined
18 in our negotiations," had to refer to serving the area
19 adjacent to this line outside of the corridor. We
20 could not -- you know, all lines had corridor rights,
21 and I can't -- I'm sorry, I can't remember what the
22 question -- what the background of the question was, I
23 just can't remember it.

24 Q. Would it be fair to say Mr. Bell called you
25 up about a line and he was asking you are we giving up

1 Q. Fair to call that an agreement?

2 A. This an agreement? Yes.

3 Q. Okay. If we look at number three, it states
4 that "Tie lines, which are lines built not to serve
5 customers but to connect two portions of an electric
6 supplier's system, shall not receive corridor rights.
7 Neither will such up line be protected from service by
8 another supplier within 300 feet of it nor may service
9 be rendered from such line within 300 feet of another
10 electric supplier's line. Lines built from a tie line
11 to serve customers shall receive normal corridor rights
12 from the point of connection with the tie line to the
13 service drop of the customer."

14 Is that an accurate description of what a tie
15 line is, Mr. Croft?

16 A. Yes, sir.

17 Q. Okay. And earlier today when we looked at
18 the SCE&G 1011 map, the map that you used for
19 territorial assignment negotiations, we were talking
20 about the purpose of the 46 kV line that goes in front
21 of the Hunter-Kinard-Tyler school. And I think that --
22 tell me if I have your testimony correct here,
23 Mr. Croft, that SCE&G is not serving anywhere within
24 the green as of the date of territorial assignment
25 along that line, and that at one point this was

1 considered by SCE&G to be a transmission line going
2 from Springfield to Norway, South Carolina; is that
3 correct?

4 MR. WILLOUGHBY: Object to the form.
5 Mischaracterizes his testimony.

6 THE WITNESS: Transmission line way back
7 years and years ago, but it had been dedicated to
8 distribution use at this time. We would have already
9 built our new 115 kV transmission line and this was not
10 a part of the transmission system.

11 BY MR. BLACK:

12 Q. Other than running from Springfield --

13 A. Distributed -- it distributed power to those
14 towns but it was not a transmission line.

15 Q. I understand that SCE&G does not characterize
16 it as a transmission line, but what I'm getting at is
17 the definition not that SCE&G uses but that the South
18 Carolina Legislature uses.

19 Was SCE&G using this line, this line being
20 the 46 kV line going in front of the
21 Hunter-Kinard-Tyler school to serve anywhere within the
22 green area?

23 A. Not at the time -- not at this time.

24 Q. Not at the time of territorial assignment?

25 A. Right.

1 Q. So the line's sole function -- were you going
2 to --

3 A. They have the right to, they just didn't have
4 the customer.

5 Q. I understand that. So the line's sole
6 function as of July 1st, 1969, the date that the
7 legislature uses for territorial assignment was to
8 transfer power?

9 A. The distribution of power.

10 Q. To transfer power?

11 A. Distribution of power.

12 Q. You and I both don't like using each others'
13 words, do we?

14 A. Right.

15 Q. The purpose of the line as of July 1st, 1969,
16 was not to distribute power anywhere within the green
17 area, correct?

18 A. Not to distribute power anywhere in the green
19 area?

20 Q. Correct.

21 A. Before or after it was green?

22 Q. As of July 1st, 1969, when it was green. And
23 frankly before, if you would like to tell me before.
24 At any time before or after territorial assignment, was
25 that line ever --

1 A. Before territorial assignment came about,
2 this line would have served any customer that it had
3 the opportunity to serve.

4 Q. Is that back when you considered it to be a
5 transmission line?

6 A. No. It was already out of the transmission
7 system. We were trying to utilize the line in any way
8 we could.

9 Q. Okay.

10 A. We would not go hang single customers or
11 small businesses even on a transmission line because it
12 jeopardizes the reliability of the line. You don't --
13 that's not acceptable. This line was considered a
14 distribution line and we could tap on to it anywhere we
15 had the opportunity.

16 Q. Okay. And that was prior to territorial
17 assignment, correct?

18 A. Yeah.

19 Q. Now let's talk about after territorial
20 assignment. Was SCE&G serving anywhere off of that 46
21 kV line?

22 A. No.

23 Q. Okay.

24 A. Not at this point. You said through here?

25 Q. Yes, sir. And the point, so that the record

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2003-273-E

IN RE:

Aiken Electric Cooperative, Inc.,
Complainant,
vs.
South Carolina Electric & Gas
Company,
Respondent.

AMENDED REBUTTAL TESTIMONY
OF JAMES F. BELL

FILED
2003 OCT 27 PM 4:45
SOUTH CAROLINA
PUBLIC SERVICE COMMISSION

- 1 **Q: Please state your name and your address for the Commission.**
- 2 A: James F. Bell, 1737 Carolina Drive SW, Aiken, South Carolina 29801.
- 3 **Q: Did you previously file Direct testimony in this matter?**
- 4 A: Yes.
- 5 **Q: Have you reviewed the pre-filed testimony of the SCE&G witnesses?**
- 6 A: Yes, I have.
- 7 **Q: Do you agree with the statements in William Harbuck's pre-filed**
8 **testimony?**
- 9 A: No, I do not believe that Mr. Harbuck was involved in the territorial
10 assignment process. He confuses a very important point. On P. 4 l. 18 -
11 P. 5 l. 7, he testifies that SCE&G served C&S Farms off of the same 46kV
12 line that serves the Hunter Kinard Tyler (HKT) School and the Norway

1 Medical Clinic. Although this may be true today, it is entirely irrelevant
2 as Mr. Harbuck admits that SCE&G did not serve the farm until the mid-
3 eighties. There is no need to confuse or further complicate the facts
4 before the Commission, as of July 1, 1969, SCE&G did not use the 46kV
5 line in front of the HKT School for anything other than linking and
6 transferring electricity between the Springfield sub-station and the
7 Norway sub-station. I know because I visually inspected the line in that
8 time period.

9 **Q: Do you agree with the statements in Robert Hazel's pre-filed**
10 **testimony?**

11 A: There are several areas within Mr. Hazel's testimony that I take issue
12 with. For example on P. 6 ll. 5-19, Mr. Hazel testifies that SCE&G
13 dedicated its lines to distribution, and that it did not matter how the
14 energy originated or what it was used for in the past. It is extremely
15 important to realize that although SCE&G may have been attempting to
16 dedicate 46kV lines for future transmission, the 46kV line in front of the
17 HKT School and Norway Medical Clinic was not being used for
18 distribution on July 1, 1969. It simply ties SCE&G's Springfield sub-
19 station to the Norway sub-station. SCE&G did not have a single service
20 drop in Aiken Electric's green area extending down the highway in front
21 of the HKT School. As I recall, SCE&G wanted "more growing room" that
22 is the very reason SCE&G attempted to assert corridor rights from the
23 46kV transmission line.

1 As the SCE&G witnesses have testified, 46kV was historically used as a
2 transmission line by SCE&G. In order to attempt to grow through the
3 territorial assignment process, SCE&G tried to argue that 46kV was no
4 longer transmission but distribution. This would allow SCE&G
5 substantial growing room as they could assert corridors off of their
6 transmission lines linking rural towns together. I, nor Aiken Electric,
7 ever agreed that 46kV was a distribution line. The documents and
8 letters between the parties directly contradict SCE&G's position in this
9 action.

10 On P. 7 ll. 4-7, Mr. Hazel attempts to define what "Mr. Bell" thought a
11 distribution line was. I do not agree with his testimony on this point, as
12 the documents between Aiken Electric and SCE&G clearly show, Aiken
13 Electric never thought that SCE&G's 46kV line was a distribution line
14 and as the several letters and memoranda from Mr. Perrone and Mr.
15 Croft illustrate, SCE&G informed Aiken Electric that the signatures on
16 the mylar maps did not mean that Aiken Electric was agreeing that
17 SCE&G's 46kV lines were distribution lines entitled to corridor rights.

18 **Q: Do you agree with the statements in Grover Croft's pre-filed**
19 **testimony?**

20 A: No, as with Mr. Hazel, there are several areas in Mr. Croft's testimony
21 that I disagree with. Throughout Mr. Croft's testimony on P. 21 l. 3 - P.
22 24 l. 19; P. 25 ll. 1-7; and P. 25 l. 8 - P. 26 l. 21, Mr. Croft bases his
23 expert opinion on two factors (1) that the mere fact that the line is on the

1 map means that it is a distribution line; and (2) that Aiken Electric
2 agreed that SCE&G could assert distribution corridor rights off of the line
3 due to the signature block on the maps. Both of these factors ignore a
4 crucial point. **Aiken Electric never agreed that the maps only**
5 **contained distribution lines.** In fact, Aiken repeatedly was assured by
6 SCE&G that the signatures did not mean that Aiken Electric agreed that
7 the lines on the map carried any type of service or corridor right. See,
8 **Exhibit T**, A.J. Perrone September 17, 1970 Letter to James Bell;
9 **Exhibit U**, A.J. Perrone September 17, 1970 Memorandum to Grover
10 Croft outlining Mr. James Bell's visit; and **Exhibit V**, March 18, 1971
11 Grover Croft Letter to James Bell.

12 Additionally, on October 9, 1970, Mr. Croft drafted a memorandum to
13 document his visit with Mr. Barney Snowden. In this memorandum, Mr.
14 Croft detailed Mr. Snowden's concerns regarding SCE&G placing 46kV
15 lines on the maps:

16 The second major point of discussion that took place
17 had to do with the 46kV lines and their rights. After
18 much discussion about this, Barney asked me a point
19 blank question. He asked if we intended to claim that
20 all 46kV lines were distribution lines. I answered him
21 in the affirmative. I stated that these were lines
22 recognized by the law **and in some cases we would**
23 **possibly not have the 300-foot corridor** or assigned
24 exclusive areas, but that we intended to negotiate for
25 the right to serve **with unassignment as the bottom**
26 **of the barrel anywhere along these lines.**

27 See **Exhibit W**, Grover Croft October 9, 1970 Memorandum.
28

1 In light of the above documents, and as further discussed in my rebuttal
2 testimony addressing Mr. Hubert Young's initial testimony, there was no
3 agreement between the parties. As Mr. Croft stated in his memorandum,
4 some 46kV lines, such as the line in this case, do not have corridors.
5 Therefore, because there was never an agreement, the Commission must
6 determine if the 46kV line is afforded a corridor right due to the manner
7 in which it was used on July 1, 1969.

8 On P. 28 l. 17 - P. 29 l. 18, Mr. Croft attempts to testify for Mr. Snowden
9 by testifying that by the term "*substantial corridor*," Mr. Snowden was
10 referring to some other form of corridor other than the legally defined
11 term that was used throughout the territorial assignment process.
12 During my numerous encounters with Mr. Snowden, the term "corridor"
13 meant exactly that, the 600 foot section surrounding the distribution
14 lines. There is absolutely no way Mr. Croft or SCE&G's lawyers know
15 exactly what Mr. Snowden was referring to. The "substantial corridor"
16 just as likely meant the more than 10 mile x 600 foot large swath of
17 territory SCE&G was attempting to gain by characterizing the 46kV line
18 as distribution. This would be a substantial corridor as it would be 600
19 feet wide for more than 10 miles as it follows SCE&G's 46kV line between
20 the rural towns of Springfield and Norway. The point here is that neither
21 party should speculate, Mr. Snowden is deceased and the document
22 speaks for itself.

1 **Q: Do you agree with the statements in Hubert Young's pre-filed**
2 **testimony?**

3 A: No, there are several areas in Mr. Young's pre-filed testimony that I do
4 not agree with based on my knowledge of distribution and transmission
5 facilities. For example throughout P. 3 l. 4 - P. 13 l. 17, Mr. Young
6 completely ignores the historical facts before the Commission in order to
7 reach a present day conclusion that supports SCE&G's position in this
8 matter.

9 Specifically, on P. 9 l. 1 - P. 10 l. 6, Mr. Young testifies that the 46kV line
10 extending in front of the HKT School and the Norway Medical Clinic
11 qualifies as a distribution line pursuant to the Federal Energy Regulatory
12 Commission (FERC) factors.

13 **Q: What is the test in South Carolina to determine whether a line**
14 **carried a corridor as of July 1, 1969?**

15 A: In my experience, directly participating in the South Carolina territorial
16 assignment process, the test that the Cooperatives and SCE&G used is
17 found in the South Carolina Code not the Federal Electric Regulatory
18 Commission procedures.

19 **Q: How did the parties define a line at the time of territorial**
20 **assignment?**

21 A: We used the definition in the South Carolina Territorial Assignment Act.
22 In the Territorial Assignment Act, the South Carolina legislature defined
23 the term "line" as used in the corridor statute as:

1 (3) The term "line" means . . . any electric
2 conductor operating at a nominal voltage level in
3 excess of 25kV and less than 48kV where it is
4 established to the satisfaction of the other electric
5 suppliers in the county or counties where such
6 conductor is located, or in the absence of such
7 agreement, to the satisfaction of the Public Service
8 Commission, that the primary purpose and use of
9 such conductor is for the distribution of electric power
10 and not for the transmission of bulk power from one
11 area to another; and, provided, further, that the term
12 "line" shall include any other electric conductor
13 operating at a nominal voltage level in excess of 25kV
14 and less than 48kV, except that, until it is determined
15 that such conductor is a distribution line in
16 accordance with the preceding proviso, the service
17 rights with respect to premises located wholly within
18 three hundred feet of such conductor shall not be
19 exclusive.

20
21 S.C. Code Ann. § 58-27-610.

22 Because neither Aiken Electric nor the Commission ever agreed on the
23 status of SCE&G's 46kV line between the rural communities of
24 Springfield and Norway, it is only afforded a corridor if it was not used
25 for the transmission of bulk power on July 1, 1969.

26 **Q: What was the 46kV tie line between Springfield and Norway used for**
27 **on July 1, 1969?**

28 A: Transmission of power between SCE&G's Springfield and Norway
29 substations. SCE&G is not able to point to a single distribution service
30 drop as of July 1, 1969, between Springfield and Norway. I am very
31 familiar with that stretch of line and I never recall SCE&G serving
32 anything off of it in 1969 or the early 1970s. Based on my recollection
33 and a thorough review of the maps, it is my opinion that the line served

1 no other purpose than a tie line between SCE&G's sub-stations in
2 Springfield and Norway.

3 In order to get around this fact, Mr. Croft and Mr. Young attempt to paint
4 the 46kV line as one "giant distribution" loop linking several
5 geographically separate rural communities together. The mere fact that
6 it links several rural communities together illustrates that on July 1,
7 1969, it was a transmission line linking and transferring power between
8 SCE&G's sub-stations in Springfield and Norway. Additionally,
9 according to SCE&G's deposition testimony, the 46kV tie line did not
10 serve a single premises within what became Aiken Electric's territory on
11 July 1, 1969. As previously stated, it served no other purpose than to
12 transfer power between SCE&G's substations in Springfield and Norway
13 tying SCE&G's system together. Thus, it fails both of the tests and is not
14 afforded corridor rights.

15 **Q: Did the 46kV tie line meet the definition of a line as codified in**
16 **Section 58-27-610 of the South Carolina Code?**

17 A: No, as of July 1, 1969, the SCE&G tie line did not meet the "line"
18 definition as found in Section 58-27-610 of the South Carolina Code.
19 The 46kV tie line was used for nothing more than transferring bulk
20 power between SCE&G's Springfield and Norway sub-stations.

21 **Q: What is the FERC factor test that Mr. Young refers to in his pre-filed**
22 **testimony?**

1 A: It is my understanding that it is a list of seven factors that the Federal
2 Energy Regulatory Commission uses to distinguish distribution lines
3 from transmission lines.

4 **Q: Does the South Carolina Public Service Commission use the FERC**
5 **test, which Mr. Young refers to in his pre-filed testimony, to**
6 **distinguish between transmission and distribution lines?**

7 A: Not that I am aware of. During my many years in the industry, it was
8 always my understanding that the Commission used and continues to
9 use the "line" definition as codified by the South Carolina legislature in
10 Section 58-27-610 of the South Carolina Code. That is the definition
11 that we used when we were in the field.

12 **Q: As of July 1, 1969, what retail customers was the 46kV tie line in**
13 **close proximity to between Norway and Springfield?**

14 A: The line was not in close proximity to a single retail customer in 1969.
15 In fact, in reviewing the maps, as of July 1, 1969, SCE&G did not serve a
16 single premises within Aiken Electric's territory between Springfield and
17 Norway. As of July 1, 1969, the line was a tie line connecting SCE&G's
18 system in Springfield to Norway. Realizing this problem, Mr. Young
19 ignores the South Carolina definition of "line" in order to characterize
20 SCE&G's tie line as one giant distribution loop serving SCE&G
21 customers in a totally separate geographical area. There is not a
22 customer in close proximity to the tie line between Springfield and
23 Norway, and the line does nothing more than connect two sub-stations.

1 **Q: Are SCE&G's local distribution facilities connected to the 46kV tie**
2 **line primarily radial in nature?**

3 No. The 46kV tie line running between the Springfield and Norway sub-
4 stations is not radial in character. As of July 1, 1969, it served no other
5 purpose than to tie SCE&G's system together between Springfield and
6 Norway. An excellent example of a distribution loop described by Mr.
7 Young is the actual distribution to the HKT School. It exits the 46kV tie
8 line between Springfield and Norway, it is stepped down, then distributes
9 to the school and ball park prior to looping back to the 46kV tie line. The
10 46kV tie line between Springfield and Norway is not a loop. Again, the tie
11 line does nothing more than connect two substations.

12 **Q: How does the power on the 46kV tie line flow versus how the power**
13 **would flow on a distribution line?**

14 A: In a local distribution line power typically flows into the system and is
15 then distributed directly to customers. The 46kV line at issue is not a
16 local distribution line as power flows out of the local geographical areas
17 that the line transmits power to. For example, power flows out of the line
18 in at least two separate geographical areas, the sub-stations in
19 Springfield and Norway.

20 **Q: Where did the 46kV tie line transport the power it carried on July 1,**
21 **1969?**

22 A: The 46kV tie line transported power to at least two different rural
23 geographical markets, Springfield and Norway. As of July 1, 1969, the

1 line did not distribute power within what became Aiken Electric's
2 territory running between Springfield and Norway.

3 **Q: As of July 1, 1969, was the power entering the 46kV tie line**
4 **consumed in a comparatively restricted area?**

5 A: No, the power entering the 46kV tie line was not consumed in a
6 comparatively restricted geographical area. In fact, using Mr. Young's,
7 example, it is consumed in at least two separate geographical areas,
8 Springfield and Norway.

9 **Q: Where are the meters off of the 46 kV tie line located?**

10 A: Today the meters off of the 46kV tie line between the Springfield and
11 Norway sub-stations are located at each service drop after the power is
12 stepped down to a distribution load. There were no meters in 1969.

13 **Q: On July 1, 1969, would 46kV have been considered a typical**
14 **distribution voltage?**

15 A: No, 46kV was not a typical distribution voltage in July of 1969. As I
16 testified in my initial testimony, it would be unusual for a utility to use
17 46kV as distribution voltage then. In the late sixties, local distribution
18 systems typically operated at voltages of 25kV or less. In fact, at that
19 time in history, a large number of distribution systems operated at
20 voltages of less than 14kV with some systems still operating at 4kV.

21 **Q: Does the loop form one giant distribution line as Mr. Young**
22 **contends?**

1 A: No, as of July 1, 1969, the 46kV line between Springfield and Norway
2 had no other purpose than to tie SCE&G's facilities together in two
3 separate rural geographical areas, Springfield and Norway. It would
4 appear absurd for SCE&G to distribute power between Springfield and
5 Norway on July 1, 1969, as that area was nothing but rural, hence the
6 geographical area in question being assigned to Aiken, the Rural Eclectic
7 Cooperative in the area.

8 Under SCE&G's "one giant loop" logic, as of July 1, 1969, the majority of
9 SCE&G's entire system could be viewed as one distribution line, clearly
10 this is not what the parties intended as "tie lines" are not distribution
11 lines.

12 **Q: On P. 10 l. 7 - P. 13 l. 17, Mr. Young testifies that the line was used**
13 **for distribution purposes as of July 1, 1969; do you agree with his**
14 **testimony?**

15 A: In order for Mr. Young to reach this conclusion he describes the line as
16 "distributing power within the local area." On July 1, 1969, the line did
17 not distribute power between Springfield and Norway; it merely
18 connected two portions of SCE&G's system together by serving as a tie
19 line between two rural communities, Springfield and Norway.

20 **Q: Is SCE&G's service off of the 46kV line today the same as it was on**
21 **July 1, 1969?**

22 A. No, although Mr. Young testifies on P. 11 l. 1, that the 46kV line is
23 exactly the same today, it is not. On July 1, 1969, SCE&G was not

1 serving a single customer in the rural territory between Springfield and
2 Norway. Today, SCE&G is serving the Norway Medical Clinic and the
3 HKT School off of the 46kV tie line.

4 **Q: What was the purpose of SCE&G's 46kV line from Springfield to**
5 **Norway on July 1, 1969?**

6 A. As I previously testified, the primary purpose of SCE&G's line between
7 the rural communities of Springfield and Norway was to transfer bulk
8 power between the communities. Contrary to Mr. Young's testimony on
9 P. 11 ll. 7-22, the 46kV tie line did nothing more than tie two
10 geographical areas of SCE&G's territory together, Springfield and
11 Norway.

12 **Q: Are tie lines distribution lines?**

13 A: No, in fact, SCE&G agreed that all tie lines existing as of July 1, 1969 did
14 not carry corridor rights. I have reviewed SCE&G Document Bates
15 Numbered 684-685, **Exhibit X**, Agreement between the Power
16 Companies and Electric Cooperatives of South Carolina and SCE&G and
17 the document specifically states that SCE&G agreed that:

18 **Tie lines, which are lines built not to serve**
19 **customers but to connect two portions of an**
20 **electric supplier's system, shall not receive**
21 **corridor rights.**

22 Id.

23 Accordingly, a tie line that connects two portions of SCE&G's system,
24 here Springfield to Norway, did not receive corridor rights. This was

1 agreed on by SCE&G and the Cooperatives during the territorial
2 negotiation process.

3 **Q: Are you aware of any other documents that contradict Mr. Young's**
4 **testimony?**

5 A: Yes, as pointed on in my initial pre-filed testimony, on numerous
6 occasions I expressed my concerns to SCE&G regarding the meaning of
7 the signatures on the maps filed with the Commission. Each and every
8 time I was informed that the signatures did not mean anything other
9 than the presence of a line and that the parties would have to agree on
10 corridor rights at a later time.

11 Mr. Croft, Mr. Young and Mr. Hazel repeatedly refer to the executed
12 mylar maps as the foundation for their testimony in reaching the
13 conclusion that Aiken Electric somehow agreed that 46kV lines were
14 afforded corridor rights.

15 As they are all aware, the documents between SCE&G and Aiken Electric
16 state quite the opposite. For example, in Mr. A.J. Perrone's September
17 17, 1970 letter to me, Mr. Perrone specifically represented to Aiken
18 Electric Cooperative:

19 **Regarding the meaning of your signature on the**
20 **Mylar films to be filed with the commission, we**
21 **only interpret this as your acceptance of the**
22 **accuracy of the map insofar as your lines and our**
23 **lines are concerned. You do not relinquish any**
24 **rights to any territory nor do you indicate approval**
25 **of any other suppliers' lines.**
26

1 See, Exhibit T Perrone September 17, 1970 Letter to James Bell
2 (emphasis added).

3 Later, in Mr. Grover Croft's March 18, 1971 letter to me, Mr. Croft also
4 specifically represented to Aiken Electric Cooperative that:

5 **The fact that the line in question is shown on the**
6 **map, in my opinion, simply means that the line does**
7 **exist.** The service rights on this line will have to be
8 determined in our negotiations.

9
10 See, Exhibit V Grover Croft March 18, 1971 Letter to James Bell
11 (emphasis added).

12 Due to SCE&G's multiple representations, I understood that the
13 signature blocks on the Mylar maps filed with the Commission did not
14 represent an approval of SCE&G's lines carrying corridor rights.

15 Unlike Mr. Young, I think that the Commission should use the "line"
16 statute as codified in Section 58-27-610 and the factors that the South
17 Carolina Supreme Court used in the Duke v. Blue Ridge case to
18 determine whether the 46kV tie line serving the HKT School and the
19 Norway Medical Clinic carried a corridor as it existed on July 1, 1969.

20 After all, this is the standard that we used in the field.

21 **Q: Has SCE&G now adopted a second argument in an attempt to**
22 **illustrate that the line was used for distribution?**

23 A: Yes, as Mr. Grover Croft testifies, SCE&G now takes a conflicting position
24 that because Aiken Electric and the Commission did not agree on the
25 status of the line on July 1, 1969, the line enjoys a non-exclusive status
26 until the commission determines otherwise. Under this argument,

1 SCE&G contends that it may serve in Aiken Electric Cooperative's
2 territory until the Commission determined otherwise.

3 **Q: Does SCE&G's new argument change your analysis in this matter?**

4 A: No, I do not believe so. It is important to note that the second proviso
5 specifically states that it is subject to the preceding language. Thus, the
6 portion of the statute that SCE&G now attempts to apply is subject to
7 the same analysis. Accordingly, because the parties and the Commission
8 never determined the status of the line, the Commission would use
9 exactly the same test: whether the line as of July 1, 1969, was used for
10 distribution **and not for the transmission of bulk power from one area**
11 **to another.**

12 As Mr. Lindsey has testified, the issue presently before the Commission
13 is straightforward: **Whether SCE&G's tie line between the Springfield**
14 **and Norway substations carried a corridor right as it existed on July**
15 **1, 1969.** In order to determine this, the Commission does not need to
16 visit Federal Electric Regulatory Agency factors, the Commission does not
17 need to explore alternate conflicting theories.

18
19 James F. Bell
20 Retired Aiken Electric Cooperative

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2005-273-E

IN RE:

Aiken Electric Cooperative, Inc.,

Complainant,

vs.

South Carolina Electric & Gas Company,

Respondent.

PREFILED TESTIMONY OF

JAMES F. BELL

1 **Q: Please state your name and address for the Commission.**

2 **A: James F. Bell, 1737 Carolina Drive SW, Aiken, South Carolina 29801.**

3 **Q: What is your current employment status?**

4 **A: I retired from Aiken Electric Cooperative in January 1990.**

5 **Q: When did you begin working for Aiken Electric Cooperative and what was your**
6 **position?**

7 **A: I began working for Aiken Electric Cooperative in 1946 as a lineman.**

8 **Q: What other positions did you hold while employed by Aiken Electric Cooperative**
9 **and during what period of time?**

10 **A. In the early 1960's I was appointed Operating Superintendent. In 1962, I was reassigned**
11 **and given the title Director of System Planning. In the 1970's my title changed to**
12 **Manager of System Planning and I was given additional responsibilities. In the late**
13 **1980's my title was changed to Manager of Operations. I held that position for a short**

1 time before returning to my prior position as Manager of System Planning. I held that
2 position until retirement in 1990. I also served as Interim General Manager from July
3 1994 through March 1995.

4 **Q: When the Territorial Assignment Act passed what did you do with regard to**
5 **making a record of Aiken Electric's facilities along Highway 332 between Norway**
6 **and Springfield?**

7 A: I immediately made a map of Aiken Electric's entire system showing what facilities
8 existed as of that date. I put the map on file in the vault. The purpose was to have an
9 accurate map which would be used to determine corridor rights when service was
10 requested.

11 **Q: How did the maps change during negotiations with other electric suppliers?**

12 A: As negotiations progressed we added to the maps everything that was constructed or
13 removed since territorial assignment. We also made notes regarding the negotiations and
14 any agreement.

15 **Q: During the territorial assignment period were you given authority to negotiate with**
16 **other electric suppliers on behalf of Aiken Electric?**

17 A: Yes. Ed Thomson, the General Manager of Aiken Electric at that time, assigned the task
18 of negotiating with SCE&G and the other cooperatives to me.

19 **Q: Why were you given that authority?**

20 A: As Manager of System Planning I had intimate knowledge of Aiken Electric's facilities.

21 **Q: What was the first step in negotiating territorial assignment in Orangeburg County**
22 **with SCE&G?**

23 A: The first step taken by all the electric suppliers was to agree on a map of every electric

1 supplier's lines in a county. I was concerned that by agreeing to the line map, which
2 would become the basis for territorial assignment negotiation, Aiken Electric Cooperative
3 might be agreeing that the lines had corridor rights or otherwise giving up certain rights.
4 As a result, I met with A.J. Perrone, Jr., the Engineering Manager at SCE&G responsible
5 for making the line maps in Aiken Electric Cooperative's area.

6 **Q: Please look at Exhibit K to your testimony. Is this letter dated September 16, 1970,**
7 **the one you wrote to B.E.B. Snowden regarding your meeting with Mr. Perrone and**
8 **his response regarding the line map?**

9 A: Yes it is.

10 **Q: Please look at Exhibit L to your testimony. Is this the response dated September 17,**
11 **1970, written by Mr. Perrone at SCE&G to your inquiry regarding the line map?**

12 A: Yes it is.

13 **Q: When you received the answer from SCE&G regarding the line maps, what did it**
14 **tell you?**

15 A: That Aiken Electric Cooperative, by signing off on the line map, was not agreeing that
16 any lines were necessarily distribution lines with corridor rights nor was it giving up any
17 claim to service rights or admitting any one else's claims to service rights. Just as the
18 letter says, when each electric supplier signed off on the line map, they were simply
19 affirming that it was an accurate drawing of the lines in place. Service rights were then
20 negotiated over the next several years from 1971 to 1973.

21 **Q: Do you recognize Exhibit M to your testimony?**

22 A: Yes.

23 **Q: What is Exhibit M?**

1 A: It is a map of the territorial assignment for electric service and lines of electric suppliers
2 in the portion of Orangeburg County where Aiken Electric Cooperative provides service.

3 Q: Please review Exhibit M and tell me what you knew about the SCE&G 44kV or
4 46kV along Highway 332 between Norway and Springfield from 1969 thru 1972?

5 A: Aiken Electric determined that the line was a transmission line. Aiken Electric made that
6 determination in part because there was no underbuild on the line except for the town of
7 Norway and just a little ways outside the town. There was no underbuild into the area of
8 Aiken Electric's facilities. SCE&G was not serving any customers from that line.
9 Additionally, Aiken Electric had at one time purchased bulk power from SCE&G. At
10 that time the only types of lines SCE&G had in the Aiken Electric territory for the
11 transmission of bulk power were 44kV or 46kV. That is how I became familiar with
12 SCE&G transmission lines.

13 Q: Did you visually inspect the SCE&G line?

14 A: Yes. Mr. Snowden and I visually inspected the lines in Aiken Electric's territory prior to
15 the territorial assignment negotiations with SCE&G. One of the lines Mr. Snowden and I
16 checked was SCE&G line along highway 332 between Norway and Springfield. At that
17 time I did not observe any underbuild along the line, except for the town of Norway.

18 Q: What is underbuild?

19 A: Underbuild are the facilities of an electric supplier coming off a line necessary for
20 hooking up service. Typically, transmission lines have little or no underbuild and
21 distribution lines have a lot of underbuild.

22 Q: Mr. Bell, you will note on Exhibit M that there is a signature block for all the
23 electric suppliers dated March 9, 1971 and signed by Mr. Thompson, the General

1 **Manager of Aiken Electric Cooperative. Do you see this?**

2 A: Yes.

3 **Q: What was the status of negotiations when this block was signed?**

4 A: I met with Mr. Thompson to review the line map. He signed the line map, prior to any
5 territorial assignment negotiations, representing that the map accurately displayed Aiken
6 Electric's lines. Each electric supplier signed the map verifying that its lines were
7 correct. He and I specifically discussed the line map and his signature, and he signed it
8 with the same understanding we had from the letter from SCE&G discussed above,
9 Exhibit L, that this signature simply stated these were the lines as they existed in July of
10 1969, and did not in any way, agree to any other supplier's service rights or give up any
11 claim to service rights by Aiken Electric.

12 **Q: How did the negotiations with SCE&G for territorial assignments proceed in the**
13 **portion of Orangeburg County where both Aiken Electric Cooperative and SCE&G**
14 **serve?**

15 A: We met several times with representatives of SCE&G, Grover Croft and Robert Hazel
16 and sometimes Leon Perry. I represented Aiken Electric Cooperative along with out
17 consulting engineer, Barney Snowden, from Southern Engineering in Atlanta. The
18 General Manager of Aiken Electric, Mr. Thompson, participated in some meetings. The
19 negotiations were very difficult. SCE&G demanded a great deal of territory and wanted
20 unassigned territory and corridor rights on transmission lines for growth purposes.

21 **Q: What position did Aiken Electric Cooperative take regarding the 44kV or 46kV line**
22 **along Highway 332 between Norway and Springfield?**

23 A: Aiken Electric Cooperative always maintained that the line was a transmission line

1 without any corridor rights. The line was used to move power between the Norway and
2 Springfield substations. In the past, Aiken Electric Cooperative purchased wholesale
3 power from the same type of line. The notes on maps and the memoranda prepared by
4 our consulting engineer, Barney Snowden, who attended every negotiation meeting with
5 SCE&G with me, reflect, just as my memory does, that Aiken Electric Cooperative never
6 agreed that the 44kV or 46kV line running along Highway 332 between Norway and
7 Springfield was a distribution line. My own review of the line prior to negotiation
8 showed no service off the SCE&G line, whereas, the Aiken Electric Cooperative 12kV
9 line on the other side of the street had numerous service drops in that general area.

10 **Q: Please review Exhibit N (Bates number AEC1053) to your testimony, do you**
11 **recognize this map?**

12 A: Yes, it is a working map of the portion of Orangeburg County served by Aiken Electric
13 Cooperative and SCE&G. Mr. Snowden and I used this map at the various negotiation
14 meetings with SCE&G. I recognize Mr. Snowden's handwritten notes. Mr. Snowden
15 and I attended all of the meetings with SCE&G together. Noted on the map are
16 SCE&G's initial requests for territory during negotiations. Mr. Snowden's handwritten
17 notes on the map indicate that SCE&G wanted corridor rights along the transmission line
18 located on Highway 332 between Norway and Springfield. Mr. Snowden's notes are
19 consistent with my recollection of the negotiation meetings with SCE&G.

20 **Q: What does the working map, Exhibit N, tell you about the 44kV or 46kV SCE&G**
21 **line running along Highway 332 between Norway and Springfield?**

22 A: As you can see from the map, there is a yellow area colored in around the line and
23 annotated with the number 8 with a circle around it. This coincides with the comment

1 "corridor trans" next to number 8 written on the side of the map showing that SCE&G
2 was asking for either unassigned territory or corridor rights running along this line as part
3 of the negotiations.

4 **Q: Please review Exhibit O (AEC030) to your testimony. Do you recognize this map?**

5 A: Yes. This is the final working map from which territorial assignment was drawn. This is
6 another map used by myself and Mr. Snowden during the negotiations. When you
7 compare Exhibit N with this map, you will see that the entire area is colored green
8 showing that Aiken Electric Cooperative never agreed to provide corridor rights for that
9 line or place unassigned territory in that area as requested by SCE&G.

10 **Q: Did SCE&G ever indicate to you in any way that they considered the line to be a**
11 **transmission line?**

12 A: I recall that during negotiations SCE&G wanted Aiken Electric to recognize the line as a
13 distribution line in the future. This led me to think SCE&G recognized it to be a
14 transmission line at that time. This is corroborated by Mr. Snowden's notes on Exhibit
15 10 where he wrote "want unassigned on trans line between Norway and Springfield."

16 **Q: Please look at Exhibit I to Mr. Stooksbury's testimony. Do you recognize this April**
17 **21, 1971 memorandum prepared by Mr. Snowden?**

18 A: This is a memorandum prepared by Mr. Snowden regarding negotiations with SCE&G. I
19 do not remember receiving a copy of this memo. My memory of the events described in
20 the memorandum, are the same. I recall that SCE&G indicated they wanted the 44kV or
21 46kV line in question to be considered a distribution line in the future. I also recall Mr.
22 Croft making statements that agreements would depend on "how you are going to treat us
23 over there."

1 **Q: Please look at Exhibit P to your testimony. Would you have received this May 10,**
2 **1971 letter from Mr. Thomson?**

3 A: I would have received a carbon copy of the letter. I do recall Mr. Thomson becoming
4 quite upset because it appeared that Mr. Croft did not have full authority to negotiate an
5 agreement.

6 **Q: Please review Exhibit Q to your testimony. Did you receive a copy of this**
7 **memorandum dated June 7, 1971 prepared by Mr. Snowden?**

8 A: Yes, I received a carbon copy. This memorandum accurately reflects the status of
9 negotiations with SCE&G in June 1971. Aiken Electric and SCE&G had resolved nine
10 areas of controversy. The nine items that were resolved consisted primarily of areas that
11 SCE&G wanted to serve, including giving transmission lines corridor rights and
12 assignment of areas where Aiken Electric had facilities and SCE&G did not. The memo
13 also accurately reflects that the parties were at an impasse over SCE&G's request for a
14 substantial corridor along Highway 332 between Norway and Springfield. That would be
15 the same 44kV or 46kV line we have been discussing.

16 **Q: Please look at Exhibit J to Mr. Stooksbury's testimony. Do you recall receiving a**
17 **copy of the August 20, 1971 memorandum?**

18 A: I don't recall receiving a copy, but I was aware of the events described in the
19 memorandum. Mr. Croft did indicate that the SCE&G requests were not negotiable.
20 SCE&G's requests were extensive and we did not make much progress on Aiken or
21 Orangeburg County. The memorandum accurately reflects what I remember about the
22 negotiation meetings.

23 **Q: When did SCE&G and Aiken Electric come to a final agreement on territorial**

1 **assignment for the parts of Orangeburg County where Aiken Electric had services?**

2 A: April 20, 1973. If you look at Exhibit O, you will see my note of that date. I also
3 indicated in my note that Mr. Croft and Mr. Bell were present.

4 Q: **What does Exhibit O indicate to you with regard to the SCE&G line located parallel**
5 **to Highway 332 between Norway and Springfield?**

6 A: The area is colored in green which indicates it is Aiken Electric's exclusive territory and
7 that Aiken Electric did not agree to SCE&G's requests for corridor rights or unassigned
8 territory along that line.

9 Q: **While negotiating with SCE&G did you, on behalf of Aiken Electric, agree to**
10 **change the designation of SCE&G's 44kV or 46kV line running along Highway 332**
11 **from transmission to distribution?**

12 A: No.

13 Q: **While negotiating with SCE&G did you, on behalf of Aiken Electric, agree to give**
14 **corridor rights to any SCE&G 44kV or 46kV transmission line?**

15 A: No.

16 Q: **What position did you have with Aiken Electric Cooperative in 1994/1995?**

17 A: For a nine month period in that time frame, I came out of retirement to be acting General
18 Manager while the Board sought out and found a replacement General Manager who
19 turned out to be Gary Stooksbury.

20 Q: **What do you remember about electric service to the Hunter Kinard Tyler School?**

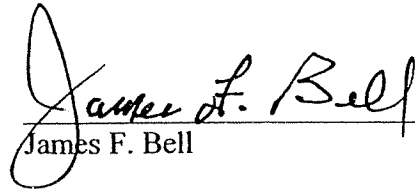
21 A: I had no independent recollection of the presentations made to the School Board or the
22 vote on service. At the time of my deposition, I saw certain documents which show that I
23 was aware of the fact that Aiken Electric Cooperative made a presentation to the School

1 Board and that SCE&G ultimately received the service.

2 **Q: Why did you not challenge SCE&G's service to the School at that time?**

3 A: I do not recall. I was the interim acting Manager for a nine month period when there was
4 great turmoil at the Cooperative and many different issues came up. I was focused on
5 helping the Board with the search for a successor General Manager and assisting the new
6 General Manager in learning about Aiken Cooperative and his position. I don't
7 remember the issue with the School coming up at that time and certainly don't remember
8 any one telling me that SCE&G claimed its right to service based on a corridor off of that
9 44kV or 46kV line which I had been familiar with for many years and knew was not a
10 distribution line back in 1969.

11
12
13


James F. Bell

IN RE:

**PREFILED TESTIMONY OF
GARY STOOKSBURY**

14 **Q: Is the Hunter Kinard Tyler School located within Aiken Electric's service territory?**

1 A: Yes, the school is located within what we refer to as green territory or Cooperative
2 territory.

3 **Q: Does SCE&G have a right to serve a premises located within Cooperative territory?**

4 A: No. SCE&G only has a right to serve a premises in Aiken Electric's territory if it has a
5 corridor right or an agreement.

6 **Q: What is your understanding of corridor rights?**

7 A: It is my understanding that an electric provider has corridor rights through another
8 provider's assigned territory so long as the line meets the statutory definition of a
9 distribution line. The definition requires that a line carrying greater than 25kV but less
10 than 48kV must meet one of the standards. Either it was used primarily as a distribution
11 line on July 1, 1969, or the electric suppliers in the area agree it is a distribution line, or
12 the Commission issues an order determining it is a distribution line.

13 **Q: Are you familiar with the tract of land containing the Hunter Kinard Tyler School**
14 **premises?**

15 A: Yes. I have visited the Hunter Kinard Tyler School site several times. Aiken Electric
16 provided temporary power to the School.

17 **Q: Are you familiar with A-Sheets?**

18 A: Yes, A-Sheets are maps that represent each utility's transmission and distribution lines in
19 given areas as the lines existed at the time of territorial assignment.

20 **Q: Have you reviewed the A-Sheet that contains the Hunter Tyler School premises and**
21 **which is marked as Exhibit A to your testimony?**

22 A: Yes, I have reviewed the A-Sheet that contains the Hunter Kinard Tyler School.

23 **Q: Does Exhibit A accurately depict the lines as of the time of territorial assignment?**

1 A: Yes, to the best of my knowledge the A-Sheet accurately reflects the transmission and
2 distribution lines as they existed at the time of territorial assignment.

3 **Q: What evidence does Aiken Electric have that demonstrates that SCE&G is unable to**
4 **legally serve the school?**

5 A: The line on the A-Sheet that SCE&G attempts to derive corridor rights from was a 44kV
6 to 46kV bulk power transmission line at the time of territorial assignment.

7 **Q: How do you reach that conclusion?**

8 A: The line is labeled 44kV to 46kV and there are no service spurs to premises within the
9 mapped area. Additionally, SCE&G had to build facilities to serve the school and ball
10 field.

11 **Q: What is the significance of a service spur?**

12 A: A service spur indicates that the electric provider was actually serving a premises or
13 customer off of the line. For example, the A-Map illustrates two Aiken Electric service
14 spurs to premises existing as of July 1, 1969. This means that Aiken Electric was at least
15 serving two customers off of the Aiken Electric line at the time of territorial assignment.
16 On the other hand, looking at the SCE&G line, there are no service spurs which leads me
17 to believe that SCE&G did not serve customers off of the line. Therefore, although the
18 line existed in 1969, it does not carry corridor rights as it was not serving customers or
19 premises at the time of territorial assignment.

20 **Q: Are you also familiar with the A-Map for the section of Highway 332 heading**
21 **towards Norway adjacent to the one we were just viewing?**

22 A: Yes I am.

23 **Q: What is Exhibit B to your testimony?**

1 A: This is the A-Sheet for the portion of 332 adjacent to Hunter Kinard Tyler School
2 heading towards Norway, South Carolina. As you can see, there are no secondary lines
3 or service spurs off of the 46kV on the other side of the highway, the Aiken Electric
4 Cooperative line has numerous secondary lines or service spurs showing where
5 individual residential or commercial services have been connected to the line. These
6 maps from 1969, confirmed my understanding that the 44kV or 46kV lines in that area in
7 the SCE&G system were primarily used for transmission and were not serving customers
8 at the time of territorial assignment.

9 **Q: What other evidence does Aiken have that illustrates that SCE&G does not have a**
10 **corridor within 300 feet of the school?**

11 A: SCE&G has approached Aiken Electric with an agreement to assert corridor rights off of
12 the transmission line.

13 **Q: Does Exhibit C accurately reflect that unsigned agreement?**

14 A: Yes. In Paragraph 6 of the proposed agreement, SCE&G specifically states that
15 "SCE&G agrees that its 44kV line is a transmission line and that it will not assert corridor
16 rights off of the 44kV line and that SCE&G will not extend the current 23kV distribution
17 line any further than the current length of the 23kV line." An agreement was never
18 reached as I did not agree with the contention that a transmission line could carry corridor
19 rights. To date, I am not aware of any evidence that supports SCE&G's contention that
20 the subject line is a distribution line carrying corridor rights. It may be a distribution line
21 today; however, in 1969, it was a transmission line.

22 **Q: Has Aiken Electric ever agreed or acquiesced to SCE&G that the subject**
23 **transmission line carries a corridor?**

1 A: No, in fact, Aiken Electric has always contended that SCE&G does not have a corridor
2 off of the referenced transmission line. On November 7, 1997, I wrote a letter to Mr.
3 Thomas Arthur, then General Counsel for SCE&G, outlining Aiken Electric's position
4 that the line was a 44kV bulk transmission line at the time of territorial assignment, and
5 as such, carried no corridor rights. In support of my letter, I referred Mr. Arthur to the
6 Blue Ridge Electric Cooperative v. Duke case (PSC Order No. 97-819) that held that the
7 Duke line was a transmission line at the time of territorial assignment and, accordingly,
8 did not have corridor rights. See **Exhibit D** (PSC Order and South Carolina Supreme
9 Court Order).

10 **Q: Is Exhibit E a true and correct copy of that letter?**

11 A: Yes.

12 **Q: Did SCE&G respond to your letter?**

13 A: Yes, three years later on November 8, 2000, SCE&G responded to my 1997 letter.

14 **Q: Is Exhibit F a true and correct copy of that response letter?**

15 A: Yes.

16 **Q: How did SCE&G reply?**

17 A: SCE&G stated that they were aware of the case and had filed an appeal.

18 **Q: Did the South Carolina Supreme Court ever address the Blue Ridge Electric
19 Cooperative v. Duke case (PSC Order No. 97-819)?**

20 A: Yes, it is my understanding that the PSC's decision that I referred to in my 1997 letter to
21 SCE&G was affirmed and that the South Carolina Supreme Court ruled that a 46kV line
22 can only be a distribution line if the parties either agree or the line was used as a
23 distribution line as of July 1, 1969.

1 **Q: Has Aiken Electric ever agreed with SCE&G that the subject line is a distribution**
2 **line?**

3 A: No.

4 **Q: Has Aiken Electric ever agreed with SCE&G that the Orangeburg County**
5 **territorial assignment map is a binding contract that only reflects distribution lines**
6 **in existence as of July 1, 1969?**

7 A: No, Aiken Electric has not. According to our Supreme Court, territorial assignment maps
8 contain both transmission and distribution lines. Prior to SCE&G's line upgrade and at
9 the time of territorial assignment, the subject line was a bulk transmission line similar to
10 the line in the Duke case in that it too did not serve a customer or premises. Neither line
11 carries a corridor as both lines were bulk transmission lines at the time of territorial
12 assignment.

13 **Q: Has Aiken Electric ever conceded that SCE&G's service to the Hunter Kinard Tyler**
14 **School is proper?**

15 A: No. In fact, in reviewing Aiken Electric's business records, it appears that Aiken Electric
16 opposed SCE&G's attempts to create corridor rights off of the bulk transmission line.
17 For example on May 10, 1971, Ed Thompson, the General Manager of Aiken Electric,
18 wrote to SCE&G to document SCE&G's attempts to monopolize the territorial
19 assignment negotiation process by building duplicate or additional lines within Aiken's
20 territory in order to later assert service rights because SCE&G wanted "growing room"
21 and did not want to be frozen in the current situation as it existed at the time of territorial
22 assignment. On June 7, 1971, B.E.B. Snowden, on behalf of Aiken Electric drafted a
23 memorandum documenting the same problems.

1 **Q: Does Exhibit G reflect an accurate copy of that letter?**

2 A: Yes.

3 **Q: Does Aiken Electric regularly keep copies of such records in the ordinary course of**
4 **it business?**

5 A: Yes.

6 **Q: Who was B.E.B. Snowden?**

7 A: Mr. Snowden was an electrical engineer with Southern Engineering Company of
8 Georgia. At the time of territorial assignment, Southern Engineering and Mr. Snowden
9 were working on behalf of Aiken Electric Cooperative.

10 **Q: What is Southern Engineering?**

11 A: Southern Engineering was an engineering firm retained by Aiken Electric during the
12 territorial assignment time period. Southern prepared several documents, memorandums,
13 and letters for Aiken Electric throughout the territorial assignment period.

14 **Q: What was the purpose of Mr. Snowden's memo?**

15 A: It is my understanding that it was written to document the negotiation sessions between
16 Aiken Electric and SCE&G.

17 **Q: Does the memorandum refer to the 44kV transmission line that SCE&G later**
18 **upgraded to serve the Hunter Tyler School?**

19 A: Yes, in fact, Page 2 of the memorandum specifically states that E&G wished to leave the
20 subject territory (the school area) unassigned "due to the fact that E&G has a
21 transmission line which at some point in the future they would hope to use as distribution.

22 **Q: Does Exhibit H reflect an accurate copy of that memorandum?**

23 A: Yes.

1 **Q: Was this memorandum drafted on behalf of Aiken electric for Aiken Electric's**
2 **benefit?**

3 A: Yes, it was sent to Mr. James Bell in order to document the territorial negotiation process.

4 **Q: Is Exhibit I an accurate copy of Mr. Snowden's memorandum dated April 21, 1971?**

5 A: Yes. This letter also reflects that SCE&G wanted "a vast amount of unassigned proposed
6 between towns and particularly along 44kV lines."

7 **Q: Is Exhibit J an accurate copy of Mr. Snowden's memorandum dated August 20,**
8 **1971?**

9 A: Yes. This memorandum reflected some of the difficulties encountered when negotiating
10 with SCE&G for territory in Orangeburg County.

11 **Q: Does Aiken Electric regularly keep such records in the ordinary scope of it**
12 **business?**

13 A: Yes, such letters are saved, typically archived.

14 **Q: Did Southern Engineering archive and store Aiken's documents through**
15 **approximately the year 2000?**

16 A: Yes, Southern Engineering archived the documents, memorandums and letters that it
17 prepared for Aiken Electric.

18 **Q: Is Southern Engineering still in existence today?**

19 A: Southern Engineering was purchased by Clough Harbour & Associates in the fall of
20 2000. At that time of acquisition, Southern Engineering agreed to transfer all the
21 Cooperatives' territorial assignment and related records to Central Electric Power
22 Cooperative for safekeeping and preservation, this included Aiken's historic documents
23 relating to territorial assignment.

1 **Q: Were the documents delivered to Central in their historic condition?**

2 A: Yes, there was nothing about the documents that would lead me to believe that the
3 documents were not authentic.

4 **Q: Why were the documents sent to Central?**

5 A: Since Central is a transmission and generation cooperative, it made sense that Central
6 would continue to store the documents in one central location on behalf of the
7 Cooperatives.

8 **Q: Have the documents been in existence for over 20 years?**

9 A: Yes, in fact most of the documents date back more than thirty years.

10 **Q: Did Southern and Central regularly keep Aiken's territorial assignment records in**
11 **the ordinary scope of their business?**

12 A: Yes, in fact Aiken requested that they do so.

13 **Q: Did Aiken Electric recently inspect Central's records relating to territorial**
14 **assignment in the Orangeburg County area surrounding the Hunter Kinard Tyler**
15 **School?**

16 A: Yes. I inspected Aiken's materials at Central, made copies of the materials relating to
17 territorial assignment, then took possession of the copies of the documents and returned
18 the originals. At no time did I remove the original documents from Central's possession
19 and control.

20 **Q: SCE&G has alleged in the past that Aiken Electric has failed to follow Regulation**
21 **103-304 in the past, are you aware of whether SCE&G complied with Regulation**
22 **103-304 in this case?**

23 A. It is my understanding that they have not.

1 **Q. Why did Aiken Electric wait until September 17, 2003 to file its petition against**
2 **SCE&G in this case?**

3 A. Aiken Electric has always maintained that SCE&G's service to the Hunter Kinard School
4 was improper. Additionally, Aiken Electric was awaiting the ruling from the Supreme
5 Court in the Blue Ridge/Duke Case.

6 **Q. Did you relay your concerns to SCE&G via letter?**

7 A. Yes. I drafted a letter to SCE&G in 1997 relating to my concerns over the school. It is
8 attached to my pre-filed testimony as Exhibit E.

9 **Q. When did SCE&G reply to your letter?**

10 A. Despite numerous attempts to get a reply, SCE&G took three years to respond to me in
11 writing. As is discussed earlier, in 2000, SCE&G finally informed me that they did not
12 believe that the Duke Blue Ridge case was the law of the land as the case was on appeal.
13 The 2000 response letter is attached to my pre-filed testimony as Exhibit F

14 **Q. Is it your understanding that the Duke Blue Ridge case is now the law of the land**
15 **concerning whether a line was a distribution line at the time of territorial**
16 **assignment?**

17 A. Yes, it is my understanding that the South Carolina Supreme Court issued the their final
18 opinion on January 24, 2001.

19 **Q. How did Blue Ridge Duke impact your understanding of corridor rights?**

20 A. It is my understanding that an electric provider has corridor rights through another
21 provider's assigned territory so long as the line meets the statutory definition of a
22 distribution line and was actually used as a "distribution line" prior to July 1, 1969.

1 **Q. From your review of the maps, was SCE&G's 44-46kV line used for distribution**
2 **power at the time of territorial assignment?**

3 A. No. I do not see any distribution service drops. Rather, the line appears to transfer bulk
4 transmission power between two substations.

5 **Q. After the South Carolina Supreme Court issued the Blue Ridge Duke Opinion what**
6 **did you do?**

7 A. After reviewing the case, Aiken realized that it now had a cause of action against SCE&G
8 as the Duke Blue Ridge ruling became the law of the land. Not only was the service to
9 Hunter Kinard Tyler School improper, it was illegal.

10 **Q: Do you understand that Aiken signed the map and because of this SCE&G contends**
11 **that the A-Map operates as a contract?**

12 A: Yes, however maps are known to have errors, and I am not aware of any precedent
13 indicating that A-Maps are binding contracts. It is my understanding that the maps are
14 simply illustrative of how all lines existed at the time of territorial assignment, not just
15 distribution lines.

16 **Q: Are you aware of any specific errors in dealing with A-Maps?**

17 A: I am familiar with a line that was left off an A- Map in Palmetto Electric Cooperative's
18 Territory. I believe the Cooperative was entitled to serve the premises as the line that
19 was left off the map was a distribution line with service drops and spurs at the time of
20 territorial assignment.

21 **Q: Are you familiar with the SCE&G v. Palmetto Electric Cooperative PSC case?**

22 A: Yes, it is my understanding that SCE&G contented that the A-Maps were binding
23 contracts in that case.

1 **Q: Are you familiar with the PSC's ruling in that matter?**

2 A: Yes, it is my understanding that the PSC and circuit court ruled that A-Maps were not
3 binding contracts. I have attached a copy of the PSC and Circuit court order to my pre-
4 filed testimony as Exhibit D.

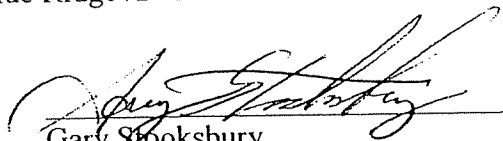
5 **Q: Are you aware that the A-Map states that it contains distribution lines?**

6 A: Yes, however, the A-Map does not state that it does not contain transmission lines.
7 Rather, I believe the map contains all lines as evidenced by the fact that SCE&G's
8 transmission line appears on the map in this case. Additionally, I am aware of a Blue
9 Ridge/Duke incident where an A-Map contained transmission lines. I have attached a
10 copy of the Blue Ridge/ Duke case to my pre-field testimony as Exhibit D (PSC Order
11 and South Carolina Supreme Court Order).

12 **Q: Is it your understanding that A-Maps contain both transmission and distribution**
13 **lines?**

14 A: Yes, that is my understanding from the Blue Ridge /Duke case.

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Gary Stooksbury
Chief Executive Officer

SOUTH CAROLINA ELECTRIC & GAS COMPANY

Inter-Office Correspondence

Distribution Operations

(Office)

Subject Fifth Meeting on Territorial Assignment
Edisto Electric Cooperative

Date October 9, 1970

To Messrs. C. J. Fritz
H. G. Boylston
D. R. Tomlin
B. M. Smith
A. J. Perrone
J. W. Liston
L. H. Perry

Attention of

Our fifth meeting on territorial assignment was held this date in Denmark at our Service Center at 10:00 a.m. Mr. Bob Smith, General Manager, and Mr. James Crider, Power Use Advisor, and Mr. Barney Snowden, Southern Engineering Company, represented Edisto Electric Cooperative. Mr. Don O'Quinn, Mr. Jim Liston, Mr. Leon Perry, and myself were present for our company.

After introductions all around, I explained to Barney the job assignments of Leon Perry, Jim Liston, and Don O'Quinn and their reason for being present at the meeting. By way of introduction of himself, Barney Snowden told of Southern Engineering's relationship with the state co-op organization and told of representing individual co-ops in negotiations. Also he talked about his activities in North Carolina in negotiating for territory assignment. Barney is a native of Charleston, South Carolina, and is a Clemson graduate in the Class of 1932. The Charleston City Engineer is Barney's brother.

Barney went through a lengthy discussion on boundary choices indicating the advantages of natural boundaries and the use of aerial photos to establish these so that they can be found in the field. In fact, Barney talked so much and so fast until we found it difficult to get adequate notes. Barney emphasized the point that it would be essential to pick boundaries that could be located in the field. Barney said he felt like we should recognize that whatever we did in these meetings so far as territorial assignment, although agreed to by us at the meeting, would be subject to final approval by the co-op's board of directors and by the management of the utility involved.

Bob and Barney then produced a Bamberg County map showing what they would concede to South Carolina Electric and Gas Company. This map also outlined the boundaries between Edisto Electric and the other Cooperatives in Bamberg County. Discussion of the map brought up again the idea of freezing lines. We explained to Barney that we felt that the definition of a frozen line should mean exactly what it says, that we felt that this should terminate any further additions of customers to the line that was frozen.

EXHIBIT	Croft	M
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Barney and Bob took violent exception to this. In fact, this upset Barney considerably. He talked at great length about this. He reacted in about the same way that Sherwood Smith and John Hicks did in the meeting that we had with them. Barney feels that with this sort of definition of freezing that their whole concept of dividing territory would be changed. He also felt that the law made the 300-foot corridor on each side of an existing line the right of the supplier that could not be taken away. Barney said this idea had never come up before and it was a real big question and that he would have to discuss this with Carlisle Roberts. He made himself a sketch, a copy of which is attached to this report, to pin down exactly what we are saying and to thoroughly understand what we meant by our definition. It is my opinion that in a day or two, after Barney has had a chance to talk with Carlisle, that we will hear loud screams from the co-op. During the course of the meeting, Barney came back to this subject three or four times and went over the whole thing again. I did not give in on our stand but promised simply to discuss it once again with my management.

The second major point of discussion that took place had to do with the 46 KV lines and their rights. After much discussion about this, Barney asked me a point blank question. He asked if we intended to claim that all 46 KV lines were distribution lines. I answered him in the affirmative. I stated that these were lines recognized by the law and in some cases we possibly would not have the 300-foot corridor or assigned exclusive area, but that we intended to negotiate for the right to serve with unassignment as the bottom of the barrel anywhere along these lines.

At a time later in the discussion, Barney made the statement that unassignment would certainly avoid arguing at length about whether a 46 KV line qualified as a distribution or basically as a bulk transfer power line. It is my opinion that Barney is more receptive to unassignment along the 46 KV than Bob Smith is. Each time we talked about the 46 KV line, particularly along Highway 78 from Bamberg to Branchville, Bob refused to give any consideration to this at all. We discussed at length assignment of the area along the Edisto River to South Carolina Electric and Gas because of the large industrial potential involved. We then moved over to the 46 KV line along Highway 321 all the way across Bamberg County. We stated that we construed this as a distribution line and stated the reason for it being the retail customers that we are serving off of it. The short section between Govan and Denmark where we do not have under build and where the co-op has a line paralleling Highway 321 on one side and we parallel it with the 46 on the other was the subject of lengthy discussion. We reached no real agreement on this either.

At the last meeting I had insisted that both parties bring a map outlining closer our feeling of how the whole county should be divided. I presented a map to the committee that I thought was realistic. The committee agreed basically with the map. Later in the week I had a discussion with Harry Lightsey and showed him the map to bring him up to date on what we proposed to do. Marion Smith attended this meeting with me. Harry convinced me that putting

this whole bundle of wax on the table at this time with Edisto not having made any more move than they had would have been a mistake, that we should not give them the whole bundle of wax at one time in that manner. Not having an opportunity to review this again with the committee before our meeting, I chose to leave the map in Columbia and not take one at all.

Bob and Barney asked if I had the map with me showing what we thought would be proper division and I said I did not. Bob seemed to feel that this was doing him an injustice and that if he had known I was not going to bring one, he would not have brought one himself. I told Bob that I had discussed this with my committee, and the fact that he had not been willing up to this point to give us any indication of what he would actually concede, my committee felt like that we should not go any further until he made this move.

The meeting was recessed for lunch and we went separately to eat so that we could both discuss our interest.

After lunch our discussion centered around the area around Bamberg and along the Edisto River so far as assignment in this area was concerned. I insisted on assignment to South Carolina Electric and Gas Company of the area along the Edisto River from Finland to 301-601 Highway at Bamberg. I insisted that we would take nothing less than assignment to us in this area because of the industrial development potential there. Bob and Barney argued against this strongly and would not agree to it as assigned to South Carolina Electric and Gas. He argued that the law gave us the right to get to any large industry that might come into this area and by assigning it to the co-op we would not cut ourselves out. I feel we must stand firm for assignment in this area. Around Bamberg, I insisted that we would have to have the right to serve around this area. I stated that Bamberg was a municipality of considerable size in which we had a very keen interest, that we stood ready to purchase this municipality if they so desired and that we would not give up in this area the right to serve. Bob Smith objected completely to this and would not go along with it at all. I also insisted that we would do nothing less from Bamberg down to where our 46 KV line crosses the Edisto River between Highway 78 and Edisto than unassignment. We insisted, because of industrial potential in this area, on the right to get in there and serve. Bob objects violently to this. We maintained that we were going to have to have unassignment along the 46 KV line.

Barney requested a set of sepia prints of the adjoining counties in which Edisto Electric serves so that he could compile a composite map of the entire service area. He feels that we should have this available at the negotiating table for reference. I agreed to sending him the sepias and will attempt to do so immediately.

Bob Smith made the point that he wanted it clearly understood that he did not intend to agree with a division along the fingers sticking out down 601 and down 321, that would constitute taking a half-way distance between what we had previously committed to him and what he had just committed to us as a solution to this problem. He indicated that except for some minor changes in the line that they had drawn that this was all that they intended to give.

Fifth Meeting on Teritorial Assignment
Edisto Electric Cooperative
October 9, 1970

Page 4

Barney discussed briefly what he thought would happen if we handed Bamberg County to the Public Service Commission and asked them to divide it up. He did not feel that this would be a good approach at all.

At the conclusion of the meeting, Barney once again re-discussed the frozen line concept and we went through that whole bundle of wax one more time.

It was the opinion of my group that we had made more progress in this meeting with Barney than we had in all the other four put together. At this stage in the game I feel that having Barney present has had a distinct advantage in moving this negotiation along. It is my opinion that the biggest problem we now have is going to be the area around Bamberg and along the Edisto River. Also we did not discuss and still will have some problems in the quadrant to the northwest of Denmark.



G. C. Croft

GCC:ac

Attachment

SEP 18 1970

SOUTH CAROLINA ELECTRIC & GAS COMPANY

POST OFFICE BOX 764

COLUMBIA, S. C. 29202

September 17, 1970

Mr. James F. Bell
Director, System Planning
Aiken Electric Cooperative, Inc.
P. O. Box 47
Aiken, South Carolina

Dear Mr. Bell:

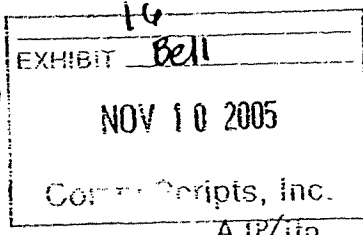
This will acknowledge receipt yesterday of your marked up blue-print of Orangeburg county showing line extensions made since your first set of maps were delivered in January.


I have referred to Mr. Grover Croft the main question we discussed yesterday regarding rights to distribution lines in existence on July, 1969, but since dismantled. This question has not been discussed before, and I am not in a position to answer it.

Regarding the meaning of your signature on the mylar films to be filed with the commission, we only interpret this as your acceptance of the accuracy of the map insofar as your lines and our lines are concerned. You do not relinquish any rights to any territory nor do you indicate approval of any other suppliers' lines.

And lastly, we will be happy to furnish you the prints of the Orangeburg county mylar as soon as we have completed recording the information you are interested in checking. As you saw, the mylar is not yet complete, as we still have mapping teams doing field checking. Let me assure you that it is not our intent to rush you into a hasty approval, and you will have all the time necessary to check the prints before you sign them.

Thank you again for delivering the updated prints, and I look forward to working with you further on this project.




A. J. Perrone, Jr.
Assoc. Mgr., Eng. Ser. & Constr.

SOUTH CAROLINA ELECTRIC & GAS COMPANY

POST OFFICE BOX 764

COLUMBIA, S. C. 29202

March 18, 1971

Mr. James Bell
Director, System Planning
Aiken Electric Cooperative, Inc.
P. O. Box 417
Aiken, South Carolina 29801

Dear Mr. Bell:

This is to confirm our telephone conversation of yesterday concerning the signing of the mylar map of Orangeburg County. I hope that Mr. Thomson will see fit to approve the map as is after you and he have had a chance to study it.

The fact that the line in question is shown on the map, in my opinion, simply means that the line does exist. The service rights on this line will have to be determined in our negotiations.

I will be glad to come back to pick up the mylar map at your office if Mr. Thomson does see fit to approve it. I am anxious to get this map signed and filed with the South Carolina Public Service Commission. My negotiations with Edisto Electric Cooperative cannot progress until this map has been filed.

Tell Mr. Thomson that I hope his broken arm is mending rapidly and was sorry to hear about his misfortune.

Yours sincerely,

Grover C. Croft, Jr.

Grover C. Croft, Jr., Director
Distribution Special Projects

GCC:js

cc: Mr. C. J. Fritz
Mr. H. G. Boylston
Mr. B. M. Smith
Mr. D. R. Tomlin
Mr. A. J. Perrone

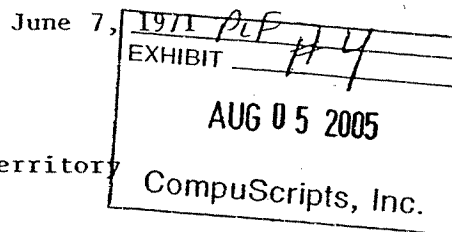
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M E M O R A N D U M

TO: File

FROM: B. E. B. Snowden

REFERENCE: Aiken Electric Cooperative Negotiations for Territory



On April 20, 1971, Snowden, Bell and intermittently, Ed Thomson, met with Grover Croft, Leon Perry and Bob Hazel of SCE&G for the purpose of negotiating what amounts to a rather small portion of Orangeburg County located west of U.S. Highway 321 of the southern boundary up to a point near North and an area about ten miles to the east of North around Wolfton, this being the area of Orangeburg County served by Aiken Electric and in parts by South Carolina Electric and Gas (SCE&G). At the conclusion of the first session we resolved nine different areas which we were in controversy over. These consisted primarily of transmission line corridors desired by E&G and some areas in which they claimed for total assignment where they had no lines and where Coop lines were existing or principally on the basis of it being "growing room around the towns".

A second session was convened on June 3 and on this occasion Ed Thomson was almost continuously in attendance with the other five persons named above. The result of the two days of negotiations did not bring us much closer to the completion of this Orangeburg County Territory. We convened again on Friday, June 4 and for about three hours again reviewed these details and resolved that we were sufficiently at an impasse as to warrant laying it aside and endeavoring to schedule a negotiating schedule on another county so that we might come back to this county at a later date. The impasse situations were that E&G wanted a substantial corridor along South Carolina Highway 332 between Norway and Springfield. They desired unassignment of an area southeast of Springfield from South Carolina Highway 3 over to Goodland Creek. This originally was requested to be assigned to them even though the

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Memo from Mr. Snowden
June 7, 1971
Page 2

Coop is totally in the area southeast of Springfield. They later indicated that possibly unassignment would be accepted.

In an area just north of Highway 332 between Norway and Springfield in an area where Swamp Creek is located there was an arbitrarily plotted approximately two square miles of area which they thought should be assigned to E&G and only reason given was that that was undeveloped territory and that since the Coop wasn't in there it should be assigned to them. Much discussion was had in connection with the degree of so-called unassigned undeveloped areas that should be assigned to E&G simply for the sake of assigning it.

* The area north of the 44 KV transmission line which generally parallels Highway 394 in the northern part of the county was also requested to be left unassigned in a rather major portion simply due to the fact that E&G has the transmission line which at some date in the future they would hope to use as distribution. We further refused to agree to leaving unassigned a section along each side of South Carolina Highway No. 3 where from the 44 KV substation E&G extended a line to a gas pumping station in direct duplicating parallel with the Coop lines along that highway. They have stated that the Commission approved that line as a distribution line and it therefore has an entitlement to at least as recognized in an unassigned area so that it would have its fair chance to serve customers.

An area north of Springfield between Goodland Creek and some dimension west of the 44 KV line was also requested to be left unassigned. The general area around the west, north and easterly boundary of Springfield as well as a small pocket of area served by the Power Company north of that area is fairly well charted and should be acceptable to E&G. The boundary along the westerly side of the Power Company's service area running north and south along U.S.

Memo from Mr. Snowden
June 7, 1971
Page 3

321 is also fairly well plotted and should be agreed upon with the exception of the area just south of the town of North where the Power Company is desirous of having total assignment made to them of all of the area including the north airport location. They did not concur in connection with an unassigned area which we offered along the northwesterly boundary of the city; nor would they agree to assignment to the Cooperative to a point about halfway between North and Woodford just west of Highway 321 where only the Cooperative facilities exist.

They indicated that at least the north airport because of its potential industrial development should be left unassigned all the way to the Swamp Creek location notwithstanding the fact that a considerable amount of Coop lines are located in and around Highway 73 and 189.

E&G has expanded probably a mile or better beyond the terminal points of the Orangeburg Electric System in the vicinity of Wolfton and are holding fast that that is simply growing room that would not hurt the Coop notwithstanding the fact that the Coop has lines throughout the area and is contending that only a close wrapup of the Orangeburg facilities should be left unassigned. Their particular point in this connection is that they aspire to purchase Orangeburg at some future date and they want as much area left unassigned as is physically possible to force upon the negotiators and in hopes of leaving vast area open and unassigned that can either be invaded by them from their present facilities or presumably as they say, as "growing room" for the Orangeburg system if as, and when they buy it.

We agreed that we would tentatively set Tuesday, July 6th for our next session at which time we would review Aiken County. Croft is to mail a

Memo From Mr. Snowden
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print of Aiken County upon which he will delineate his district line boundaries so that we can pick one or another and he can have his various district personnel present during the negotiations and not have all of the various ones standing around wasting time.

This memorandum is written simply as a reminder of some of the detail transpiring during the two and a half days of negotiation sessions and at which point no single line has been finally and formally agreed upon by E&G. Every time a boundary line was plotted that appeared to be acceptable, it was almost invariably conditioned upon "that will depend upon how you treat us over here". They simply refuse to wrap up an area and say we are through with that. We apparently are confronted with the requirement that we carry a myriad of little contingent details in our minds and at some point in time probably begin flipping the coin to try to trade off those little details in an effort to wrap up the entire project. The attitude displayed in connection with this negotiation prompted the Coop personnel and myself to consider that if we could we would take this to the Commission and let them decide what to do with Orangeburg County, but we realized that this would be improper and so we have scheduled the Aiken County to move next. This is a big county and the negotiating sessions in that county will certainly be indicative of what we may expect in reference to this matter. The same thing happened at Bamberg where we moved from Bamberg County up to Orangeburg County area served by Edisto Electric and this has somewhat moved the Bamberg County off of dead center and it is just about resolved and ready to be filed with the Commission.

I'm most desirous that Ed Thomson and Jimmy Bell both read this and referring to the map, make such additional notations as would be helpful if

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Memo from Mr. Snowden
June 7, 1971
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as, and when we might want to refresh our minds clearly as to our two and a half day sessions.

BEB/sp

B. E. B. Snowden

CC - Mr. Ed Thomson
Mr. Jimmy Bell

SOUTH CAROLINA ELECTRIC & GAS COMPANY

Inter-Office Correspondence

Engineering Service Section

(Office)

Subject: Visit from Mr. James F. Bell
Aiken Electric Cooperative

Date: September 17, 1970

To: Mr. G. C. Croft

Attention of

As anticipated, Mr. James Bell delivered the print of the Orangeburg county map yesterday marked up to show the line extensions they have completed since he delivered the first set of maps in January.

Also, as anticipated, he had more on his mind than delivering the prints. He had several questions which I answered tentatively or non-committally. The main question pertained to his interpretation of one point of the law, and I am referring it to you for an answer. The questions were as follows:

(1) Mr. Bell stated that the maps he furnished us previously showed lines that were in service in July, 1969, but have since been dismantled. He wants those lines shown on the mylar and wants to claim rights to the area the line covered even though they are no longer in existence. Also, where they have re-routed distribution lines from cross-county or open-field to locations bordering existing roads, he wants to claim the original route as well as the new route. I personally disagree with his views, but I refrained from answering him.

(2) He wanted to qualify his approval of the mylar maps to include only our lines shown in the areas of expected contention bordering our territories. I explained to him that his signature on the map only implied his acceptance of the accuracy of the map insofar as his lines and our lines were concerned.

(3) He also requested that prints of the Orangeburg county mylar be furnished him as soon as possible so that he could begin field checking our lines. I explained to him that the mylar was not nearly complete yet, but as soon as we had our lines shown we would send him copies. I assured him that, in any event, he would have all the time needed to check the maps and we had no intention of rushing him into a hasty approval.

Mr. Bell also asked to see the mylar of Orangeburg county, which I showed him, and was very complimentary of the quality of the work. He indicated surprise that most of the additions he was reporting by the print he brought in were already shown on the mylar.

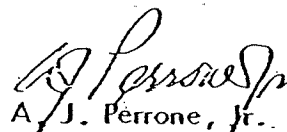
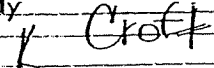

A. J. Perrone, Jr.

EXHIBIT	
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cc: C. J. Fritz, H. G. Boylston, B. M. Smith, D. R. Tomlin

SCE&G

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. _____

IN RE:

Aiken Electric Cooperative, Inc.,
Complainant,

vs.

South Carolina Electric & Gas Company, Inc.,
Respondent.

COMPLAINT

TO: THE ABOVE NAMED RESPONDENT:

Complainant would respectfully show:

1. Complainant, Aiken Electric Cooperative, Inc. ("Aiken Electric"), an electric cooperative established under the laws of the State of South Carolina, which is in the business of furnishing electric service for domestic, commercial or industrial customers within the State of South Carolina, subject to regulation by the South Carolina Public Service Commission ("Commission").

2. The address of Aiken Electric is:

Aiken Electric Cooperative, Inc.
2790 Wagener Road
Post Office Box 417
Aiken, South Carolina 29802-0417
Telephone: (803) 649-6245

3. Upon information and belief, Respondent, South Carolina Electric & Gas Company, Inc. ("SCE&G"), a South Carolina Corporation, is an electric utility in the

business of furnishing electric service for domestic, commercial or industrial customers within the State of South Carolina.

4. The address of SCE&G is:

South Carolina Electric & Gas Company, Inc.
1426 Main Street
Columbia, South Carolina 29218
Telephone: (803) 748-3477

5. Pursuant to S.C. Code Ann. §58-27-610, *et seq.*, the Public Service Commission has jurisdiction over the parties and the subject matter of this Complaint.

6. The Hunter Kinard Tyler School is a public school located in Orangeburg County, South Carolina.

7. The Hunter Kinard Tyler School is located wholly within the exclusive territory assigned to Aiken Electric by the Commission pursuant to the Territorial Assignment Act. See, S.C. Code Ann. §58-27-610, *et seq.* (1976).

8. Pursuant to S.C. Code Ann. §58-27-620 (1976), Aiken Electric has the exclusive right to supply electricity to the Hunter Kinard Tyler School premises by virtue of the Territorial Assignment Act by the Commission.

9. Upon information and belief, SCE&G currently serves the Hunter Kinard Tyler School.

10. SCE&G's provision of electric service to the Hunter Kinard Tyler School is in violation of the Territorial Assignment Act, S.C. Code Ann. §58-27-620(1)(d)(iii), in that the school is located entirely within Aiken Electric's exclusive assigned territory and no statutory exclusion to service exists.

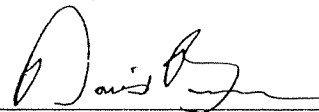
11. The Hunter Kinard Tyler School premises is not located partially or wholly within three hundred (300) feet of any SCE&G distribution line.

12. Pursuant to the South Carolina Supreme Court's recent ruling in Duke Power Co. v. The P.S.C and Blue Ridge Electric Coop., Inc., 343 S.C. 554, 541 S.E.2d 250 (2001), corridor rights arise only out of distribution lines.

13. SCE&G's illegal provision of electric service to the Hunter Kinard Tyler School stems from a transmission line rather than a distribution line.

14. Accordingly, SCE&G has neither a statutory or legal corridor right to serve the Hunter Kinard Tyler School.

WHEREFORE, Complainant prays for temporary and permanent injunctive relief and an order requiring Respondent to cease and desist its provision of electrical service to the Hunter Kinard Tyler School in Orangeburg County.



Marcus A. Manos
J. David Black
NEXSEN PRUET JACOBS & POLLARD, LLC
1441 Main Street, Suite 1500
Post Office Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900

Attorneys for Complainant
Aiken Electric Cooperative, Inc.

September 17, 2003

Columbia, South Carolina



**Aiken Electric
Cooperative, Inc.**

P.O. Box 417 • 2790 Wagener Road
Aiken, South Carolina 29802-0417
(803) 649-6245 • FAX (803) 648-9868

November 7, 1997

Mr. Thomas Arthur
General Counsel
South Carolina Electric & Gas Company
Columbia, SC 29218

Dear Mr. Arthur:

I am writing to express our disapproval with SCE&G's actions to serve the Norway Medical Clinic in Norway, Orangeburg County. If SCE&G continues its effort to provide electric service to the clinic, Aiken Electric Cooperative will be forced to take legal action.

It is my understanding that SCE&G is trying to serve the Norway Medical Clinic, which resides exclusively in Aiken Electric Cooperative's assigned Public Service Commission territory. Aiken Electric Cooperative does not believe SCE&G has any legal rights to serve this customer. SCE&G maintains it is a customer choice situation because its 44kV line grants it corridor rights. We believe the line serves a bulk transmission function and is not a distribution line, thus, no corridor rights may be asserted.

I am enclosing a copy of the recent Public Service Commission decision, Blue Ridge Electric Cooperative, Inc. v. Duke Power Company, (Order No. 97-819), which held that Duke Power Company could not assert corridor rights from its 44kV transmission line. Specifically, the PSC stated, "we do not believe the line in question is a distribution line under the facts of the case, but is a transmission line (*emphasis added*). "The Commission further held, "...we do not believe that this transmission line is capable of generating corridor rights under the laws of this State. We therefore hold that there is no corridor through Blue Ridge territory in this case." Clearly, the Commission's ruling maintains that a 44kV transmission line does not give rise to corridor rights.

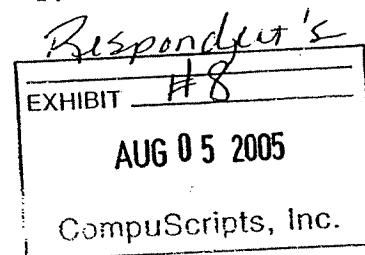
Given these facts are nearly identical to the Blue Ridge decision, Aiken Electric has no choice but to insist that SCE&G immediately cease and desist any activities to unlawfully serve the Norway Medical Clinic. SCE&G's failure to so cease will force us to stop these unlawful activities.

I trust you will give this your immediate attention and contact us accordingly.

Sincerely,

Gary L. Stooksbury
Executive Vice President
& General Manager

low



AEC136

NOV-09-00 THU 02:06 PM AEC-CEO

FAX:18036482959

PAGE 2

D. Russell Harris
Vice President
Electric Service



November 8, 2000

Mr. Gary L. Stooksbury
Executive Vice President and General Manager
Aiken Electric Cooperative, Inc.
P.O. Box 417
Aiken, SC 29802-0417

Dear Gary:

I understand that you have requested an update on the status of the service issue with the Norway Medical Clinic. My understanding is that our attorney, Catherine Taylor, has been in contact with Rob Tyson since our meeting in 1998 to work out a written agreement consistent with our discussions at that meeting. However, to date, no written agreement is in place.

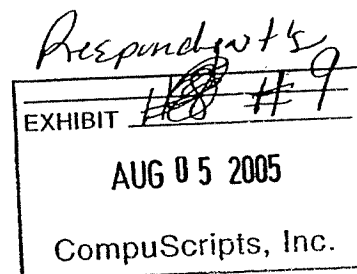
In your letter to Tom Arthur and in our meeting, you referenced the PSC ruling on Blue Ridge v. Duke. In that case the particular transmission line carried no corridor. I am familiar with the ruling, and also that Duke has filed an appeal.

In the interim, SCE&G will serve no additional customers from the existing line that serves the Hunter-Kinard-Tyler school and the Norway Medical Clinic, where it was determined that service rights were obtain from the 46kv line.

Sincerely,

Don R. Harris

C: Clarence Wright
Catherine Taylor



THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2005-273-E

IN RE:

AIKEN ELECTRIC COOPERATIVE, INC.,

Plaintiff(s),

vs.

SOUTH CAROLINA ELECTRIC COOPERATIVE,

Defendant(s).

D E P O S I T I O N

WITNESS: MIKE CHERRY

DATE: Thursday, December 8, 2005

TIME: 9:45 a.m.

LOCATION: Willoughby & Hoefer, P.A.
1022 Calhoun Street
Columbia, South Carolina

TAKEN BY: Attorneys for the Plaintiff

REPORTED BY: SHERI L. BYERS
Certified Court Reporter

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803-988-0086
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1 Q. Who was there?

2 A. I don't know who he was. One of the guys,
3 though, told me he was about to blowup. His face was
4 so red, it looked like he was going to explode. That's
5 what I remember about it.

6 Q. Do you recall who mentioned that to you?

7 A. One of my employees. Said he honestly looked
8 like he was going to hemorrhage right there on the
9 seat. It wasn't Gary Stooksbury. It one of their
10 local -- local guys, whoever was in charge of that area
11 at the time. He was older. I don't remember who he
12 was.

13 (A recess transpired.)

14 BY MR. MANOS:

15 Q. Mr. Cherry, how long did it take SCE&G to
16 recoup its \$114,000 investment in hooking up the
17 service?

18 A. I have no idea.

19 Q. Did you have any role in estimating whether
20 or not the service would be profitable over time to the
21 company?

22 A. Yeah. I mean, well, yeah, we used to, I
23 think they call a four-to-one ratio, something like
24 that. And basically, you would take the general
25 consensus or rule of thumb we'd use is if the revenues

1 generated over a four-year period were in the ballpark,
2 then it would basically be a profitable thing to do.

3 Q. In other words, if you get the return on the
4 installation in the first four years?

5 A. No, you would basically add all the revenue
6 that you're going to get and then you add that up and
7 if it's about what the cost of service was, then it
8 would be okay.

9 Q. So the first four years are equal to or
10 greater than the cost of service, move forward with the
11 project?

12 A. Say that again.

13 Q. If the first four years of service are equal
14 to or greater than the cost of installing the service,
15 move forward?

16 A. Yeah. It would look like it would be a good
17 idea, right.

18 Q. Do you recall roughly what the annual
19 billings for the HKT School were while you were in the
20 central district?

21 A. I don't think I ever even looked at it again.

22 Q. After SCE&G was selected for the project to
23 provide electricity to the project and HKT School was
24 up and running, did you every revisit the site in any
25 way? Any other issues come to your attention?

DIRECT TESTIMONY

OF

WILLIAM K. HARBUCK

ON BEHALF OF

SOUTH CAROLINA ELECTRIC & GAS COMPANY

DOCKET NO. 2003-273-E

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8 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

9 **A.** My name is William K. Harbuck, and my business address is 1615
10 Clinton Street, Barnwell, South Carolina.

11 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

12 **A.** I am employed as a local manager in the Western District for South
13 Carolina Electric & Gas Company.

14 **Q. DESCRIBE YOUR EDUCATIONAL BACKGROUND AND BUSINESS**
15 **EXPERIENCE.**

16 **A.** I graduated from Allendale-Fairfax High School in 1974. I then
17 attended three semesters of college at USC-Salkahatchie. In April 1976, I
18 went to work for SCE&G as a lineman working out of the Denmark, South
19 Carolina office. Over the last thirty years I have received various
20 promotions from lineman to lead lineman, then to line supervisor, then to
21 my current position as local manager.

22 **Q. WILL YOU BRIEFLY SUMMARIZE YOUR DUTIES WITH SOUTH**
23 **CAROLINA ELECTRIC & GAS COMPANY?**

1 A. As a local manager, I am responsible for the construction,
2 operation, and maintenance of the distribution system in what is referred
3 to as the Barnwell local area, which includes the area where the Hunter-
4 Kinard-Tyler School ("HKT School") is located. When I served as a line
5 supervisor in 1995 during the construction of the facilities to serve the HKT
6 School, I was responsible for the construction and maintenance of
7 distribution lines.

8 Q. MR. HARBUCK, WHAT IS THE PURPOSE OF YOUR TESTIMONY IN
9 THIS PROCEEDING?

10 A. The purpose of my testimony in this proceeding is to explain the
11 physical facilities, both generally and specifically, used by SCE&G to
12 provide electric service to the HKT School in Orangeburg County, South
13 Carolina.

14 Q. ARE YOU AWARE OF HOW SCE&G CAME TO SERVE THE HKT
15 SCHOOL?

16 A. No. I was not involved in any decision about whether to provide
17 service to the HKT School. I had heard that a new school was being built
18 in the area, and I knew that SCE&G was competing with Aiken
19 Cooperative to provide service to the school. The District Manager at the
20 time was Mike Cherry, and I understand that the school board had
21 selected SCE&G to provide service and Mr. Cherry told me it would be my
22 job to construct the facilities necessary to serve the school.

1 Q. WHAT WAS YOUR ROLE IN PROVIDING ELECTRIC SERVICE TO THE
2 HKT SCHOOL?

3 A. I was responsible for the construction of the facilities. I was
4 provided with a design by an SCE&G district engineer and I implemented
5 that design by constructing the facilities necessary to provide service to
6 the school.

7 Q. PLEASE DESCRIBE THE SPECIFIC FACILITIES USED BY SCE&G TO
8 PROVIDE SERVICE TO THE HKT SCHOOL FROM THE LINE.

9 A. SCE&G provides service to the HKT School from a 46 kilovolt
10 ("kV") electric line running between the towns of Springfield and Norway
11 ("Line"). To serve the HKT School from this Line, SCE&G placed a step-
12 down transformer on a fence-enclosed concrete pad off of the highway.
13 This transformer is used to step-down the voltage. While the transformer
14 could have been placed on a pole, placing the transformer in a fence-
15 enclosed area provides easier access for maintenance and also
16 decreases the risk that an accident on the highway would disrupt power to
17 the school, as it might if the transformer had been mounted on a pole near
18 the highway and a car struck the pole.

19 Overhead lines operating at 23kV were constructed, and a primary
20 meter is located on the first pole where the 23kV line was constructed
21 from the transformer. Pursuant to the school's request, the lines were
22 then placed underground to run underneath Highway 332 to HKT School.
23 All of the lines on the school grounds are underground for safety reasons

1 and aesthetics. Pad-mounted transformers were also installed at the
2 school building and at the athletic field to further step down the voltage to
3 a service level for delivery to the School. The underground lines loop
4 around the school premise and cross back under the highway and emerge
5 above ground on the other side of Highway 332 from HKT School and
6 connect to the overhead line where the loop is completed. This service
7 configuration is shown on the diagram attached to my testimony as Exhibit
8 No. ___ (WKH-1).

9 **Q. HOW DO THESE FACILITIES FUNCTION TO PROVIDE RELIABLE**
10 **SERVICE TO THE HKT SCHOOL?**

11 **A.** The facilities provide redundancy and reliability to the HKT School.
12 Power flows from the 46kV Line via overhead lines through the meter and
13 is directed through the underground lines underneath the road to the
14 school, around the school premise, and then back under the highway to
15 the overhead lines. In the event of a break in the line, power can be
16 redirected to flow from the opposite direction to provide power to the HKT
17 School.

18 **Q. HAS SCE&G SERVED ANY OTHER CUSTOMERS DIRECTLY OFF OF**
19 **THE SPRINGFIELD-NORWAY LINE?**

20 **A.** Yes. I am personally aware that in the 1980s SCE&G served the
21 C&S Farms irrigation system directly from the same Line that is currently
22 directly serving HKT School, as further evidenced by the documents
23 showing a contract for service to C&S Farms and the work order showing

1 the 46kV transformer bank to be installed, attached as Exhibit No. ____
2 (WKH-2). I personally maintained, serviced, and eventually removed the
3 transformer bank serving C&S Farms. Additionally, SCE&G currently
4 provides electric service from this Line to the Town of Norway for a lift
5 station to provide sewer service to the HKT School, the South Carolina
6 Department of Transportation for a warning light, and the Norfield Medical
7 Clinic, which is located across the highway from the HKT School.

8 **Q. HAVE YOU MEASURED THE DISTANCE FROM THE LINE TO THE**
9 **HKT SCHOOL PREMISE?**

10 A. Yes. Measuring from the outside conductor of the 46kV Line, the
11 HKT School premise is partially within 300 feet of the Line.

12 **Q. WHAT IS THE SIGNIFICANCE OF THE 300-FOOT MEASUREMENT?**

13 A. I understand that in general SCE&G has the right to serve any
14 customer located within its assigned territory or any customer located
15 partially or wholly within 300 feet of any electric line shown on an A-sheet.

16 **Q. WHAT IS AN A-SHEET?**

17 A. A-sheets are detail maps showing electric lines or territorial
18 boundaries. The "A-sheets" show in greater detail those electric lines
19 which have corridor rights under territorial assignment.

20 **Q. IS THE 46kV LINE BETWEEN SPRINGFIELD AND NORWAY ON THE**
21 **TERRITORIAL ASSIGNMENT MAP AND ON AN A-SHEET?**

22 A. Yes. I identified Highway 332 and Snake Swamp Road, which are
23 located near the HKT School, on the key map, found the corresponding

1 detail "A-sheet," which is sheet number 9 of 23 in series 55,839, and
2 located the 46kV line on the detail "A-sheet." The key map "keys"
3 individual A-sheets to a portion of the larger county map showing territorial
4 assignment and the lines of electric suppliers. I drew a diagram of the
5 HKT School and the service configuration on a copy of the detail "A-
6 sheet," which is attached as Exhibit No. ____ (WKH-3). While I did not
7 verify the location to scale, this is a fair approximation of the HKT School's
8 location.

9 **Q. DID SCE&G PROVIDE TEMPORARY POWER FOR THE**
10 **CONSTRUCTION OF THE HKT SCHOOL?**

11 **A.** Yes. I supervised construction of the facilities to provide temporary
12 service to M.B. Kahn as the general contractor for construction of the HKT
13 School. We provided that power off of the 46kV Line.

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 **A.** Yes.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-153-E - ORDER NO. 97-819
SEPTEMBER 19, 1997

✓ MR

IN RE: Blue Ridge Electric Cooperative, Inc.,)	ORDER
)	GRANTING
Petitioner,)	CEASE AND DESIST
)	
vs.)	
)	
Duke Power Company,)	
)	
Respondent.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition of Blue Ridge Electric Cooperative, Inc. (Blue Ridge) for an Order of the Commission requiring Duke Power Company n/k/a Duke Power, a division of Duke Energy Corporation (Duke) to cease and desist from attempting to provide power to the Nason Corporation (Nason). Nason is located wholly within territory assigned to Blue Ridge. Duke, however, alleges that it is entitled to serve Nason by claiming corridor rights from a specific line, and from a 1972 Order of this Commission in which Duke alleges the Commission created a 600 foot wide swath of unassigned territory within territory assigned to Blue Ridge, and that Nason is partially located within that swath. According to Duke, this scenario makes

for a "customer choice" situation. Nason apparently has chosen Duke as its electric supplier.

After appropriate Notice, a hearing was held on this matter on August 14, 1997 at 10:30 AM in the offices of the Commission. The Honorable Guy Butler, Chairman, presided. Blue Ridge was represented by Steven W. Hamm, Esquire and Mary S. League, Esquire. Blue Ridge presented the testimony of C. Alan Blackmon, Barney Drake, and Charles Dalton. Duke was represented by William F. Austin, Esquire, Richard Whitt, Esquire, and Jefferson D. Griffith, III, Esquire. Duke presented the testimony of Stephen M. Mihaly, Stephen R. Goza, Mark E. Johnson, and Edward T. Connell. The Commission Staff was represented by F. David Butler, General Counsel. The Staff presented no witnesses.

Although a Motion to Dismiss the Petition had been filed by Duke and a Motion to Strike Testimony had been filed by Blue Ridge, neither Motion was heard at the request of the parties. We will therefore consider only the request of Blue Ridge for a Cease and Desist Order.

Duke contends that S.C. Code Ann. Section 58-27-620(1)(d)(iii) grants it the right to serve the Nason premises. Section 58-27-620(1)(d) defines an electric supplier's rights to serve a new premises located partially within three hundred feet of its line and partially within the service area of another electric supplier. Section 58-27-620(1)(d)(iii) then, under Duke's theory, allows an electric supplier to serve a specific premises if three conditions are met. First, the new

premises must be located partially within three hundred feet of a line of the electric supplier as it existed on July 1, 1969. (A "line" is defined as a distribution line in Section 58-27-610(3). Second, the premises must be located partially within the service area assigned to another supplier. Third, the customer must choose the electric supplier over the other supplier. Duke believes that it has satisfied all three conditions, and therefore, has the right to serve Nason.

Our review of the record, however, reveals that Duke is deficient at least as to the first condition. The testimony at the hearing showed that the presently existing 44kv line that is the subject of this matter was constructed in 1974, and serves as a transmission tie line between Westminster and Walhalla. Only one customer, Steel Huddle, is now served off this line, pursuant to its initial load of 750kw. Duke's testimony reveals that, if it were to serve Nason, that a new line would have to be built, and the plant would not be served from the existing line. We do not believe that the line in question is a distribution line under the facts of this case, but is a transmission line. Since this is the case, we do not believe that this transmission line is capable of generating corridor rights under the laws of this State. We therefore hold that there is no corridor through Blue Ridge territory in this case.

In further support of this proposition, we note that Section 58-27-620(1)(c) provides that no electric supplier may assert corridor rights from distribution lines constructed after the time

of assignment of territory. The testimony in this case revealed that, according to the birthmarks on the poles, the current "Bear Swamp" 44 kv line was constructed in 1973, during which time the former 44kv Darby transmission line was converted to a 100kv transmission line. A 100kv line by definition cannot be a distribution line, and therefore carries no corridor rights with it. Even if Duke could have claimed corridor rights with the original 44kv transmission line, this line is now clearly a 100kv transmission line. As the 1969 "Darby" 44kv line no longer exists, any corridor rights that Duke may have had no longer exist. We do not believe that Duke can assert corridor rights appurtenant to the current "Bear Swamp" 44kv transmission line as it was constructed after September 5, 1972, the date of the Order assigning the territory in question to Blue Ridge.

Nor do we think that our Order No. 16,394 designated "unassigned territory" in the area 300 feet from the specific lines as cited by Duke. There was no evidence presented at the hearing that this was ever the intent or agreement of the parties. This Order was simply a form order used by us statewide. There is no specific language or discussion in the 1972 Order that references any unassigned territory relating to any specific lines.

The language in the Order simply tracks the language in the territorial assignment enabling statute, Section 58-27-640. Duke's interpretation is in direct conflict with the corridor rights provisions established within the Territorial Assignment

Act itself. The Act addresses the ability to assert corridor rights within 300 feet of distribution lines extensively. We do not think our Order No. 16,394 was ever intended to displace the provisions of the Act.

We agree with Blue Ridge that the Territorial Assignment Act contains language maintaining a presumption against concluding that a line is a distribution line, and requires that the Commission determine that the "primary purpose and use" of a line is for the distribution of electric power. As we have already stated, we do not believe that the facts in this case support such a conclusion. The line in this case has served only a single customer in all of its years of existence. That customer is only being served pursuant to the 750kw exception, not because of any corridor rights.

In addition, we hold that the principle of "res judicata" does not come into play in this case. The current "Bear Swamp" line is not the same line as shown on Duke's Exhibit A. Also, pursuant to S.C. Code Ann. Section 58-27-620(1)(c), Duke cannot lawfully claim corridor rights from any line constructed after 1972. Since the 44kv transmission line in question was constructed in 1974, Duke's argument is unavailing.

Further, no corridor rights attach to the 100kv line under Section 58-27-610(3), as the line is not a 44kv line nor is the premise to be served wholly within 300 feet of the 100kv line. Thus, Duke's proposition is without merit.

The end result of this discussion is that the Nason plant is

located totally within Blue Ridge assigned territory. Under the Territorial Assignment Act, Blue Ridge has an exclusive right to serve Nason with electricity.

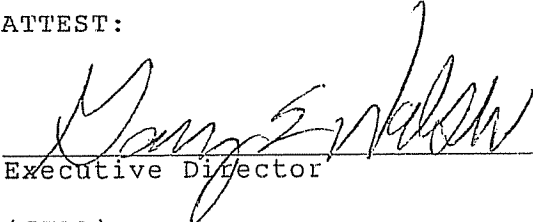
Consequently, we hereby grant the requested Cease and Desist Order against Duke. Duke shall cease and desist from its attempts to provide electric service to the Nason premises.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-153-E - ORDER NO. 97-916
OCTOBER 24, 1997

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IN RE: Blue Ridge Electric Cooperative, Inc.,)	ORDER
)	DENYING
Petitioner,)	PETITION
)	
vs.)	
)	
Duke Power Company,)	
)	
Respondent.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Reconsideration and/or Rehearing filed by Duke Power Company (Duke) of our Order No. 97-819 in this Docket, which granted the relief requested by Blue Ridge Electric Cooperative, Inc. (Blue Ridge or the Coop.) Our Order required Duke to cease and desist from attempting to provide power to the Nason Corporation.

Duke requested reconsideration of this Order, alleging certain factual errors and failure to address Duke's argument. We have re-examined the matter, and conclude that the findings in our Order No. 97-819 are in accordance with South Carolina law and are supported by a preponderance of credible, reliable, and substantial evidence. We will elaborate in the paragraphs that

follow.

First, Duke alleges that we are in error in finding that S.C. Code Ann. Section 58-27-610(3) and S.C. Code Ann. Section 58-27-620(1)(d)(iii) do not provide authority for Duke to serve the Nason premises. We reject this contention. The substantial evidence of record shows that Duke constructed the 44kv "Darby" line in 1969, which served no distribution customers. (See Testimony of Mark Johnson.) The 44kv line currently in existence, the "Bear Swamp" line, was constructed in 1974. (See testimonies of Mark Johnson and Barney Drake.) The Nason premises are not located wholly within 300 feet from either line. (See Ex. A-I and A-II to Duke's Response to Blue Ridge's Petition.) The "Darby" line was not a distribution line, and therefore conveyed no service rights within Blue Ridge assigned territory. The "Bear Swamp" line was constructed after July 1, 1969, and would therefore convey no corridor rights, regardless of its function. Further, the Nason plant is not located wholly within 300 feet of either line, and SC Code Ann. Section 58-27-610(3) only extends corridor rights from distribution lines with respect to premises located wholly within 300 feet from such a line. We reaffirm our earlier holding that the Code sections cited do not provide authority for Duke to serve the Nason premises.

Second, Duke contends that we did not correctly interpret the evidence in the record regarding construction of the 44 kv "Darby" line, 100 kv line, and 44 kv "Bear Swamp" lines. We reject this allegation, since it is without merit.

The evidence at the hearing showed that the 44 kv "Darby" transmission line which was constructed in 1969 was upgraded to a 100 kv transmission line in 1974, and that there has been no 44 kv line on the original towers constructed in 1969 since that time. (See testimony of Johnson, Drake, affidavit and testimony of Connell, and Ex. A-I and A-II to Duke's Response to Blue Ridge's Petition.) While there may have been wire strung continuously on the 1969 towers, it ceased carrying electricity at 44 kv in 1974. The testimony clearly showed that a new 44 kv "Bear Swamp" transmission line was constructed in 1974, that it is not the same line as the 44 kv "Darby" transmission line, and was therefore not a mere renaming as Duke alleges.

Further, we correctly found that the 44 kv "Bear Swamp" line serves as a transmission tie line. Duke's witness, Mark Johnson, provided an affidavit to the Commission stating that the "Bear Swamp" line originally served as a transmission tie line from its construction in 1974 until it began serving the Steel Heddle plant in 1981. The affidavit further stated that this line also currently serves as a back up transmission tie line to the Walhalla station. Further, the photograph at Exhibit 2 to the prefiled testimony of Barney Drake shows a Duke sign on the Duke pole on the Walhalla side of the tap feeding Steel Heddle which states: "Bear Swamp Line, Walhalla Tie Side Steel Heddle Tap." Thus, our finding is supported by evidence in the record.

In addition, Duke alleges that we erred in finding that Duke would construct a new line to serve the Nason plant. This is not

the case. As Duke points out in its Response, it was uncontroverted that it would not serve the Nason plant off of its existing 44 kv "Bear Swamp" transmission line, but that it would be more economical to construct another line to serve the plant. Duke alleged in part that this 44 kv line was a "distribution" line. As such, the character of this line as distribution or transmission was directly put at issue by Duke. That it would be uneconomical to serve a distribution customer off of a purported "distribution" line is directly relevant to the character of the line. Further, the Territorial Assignment Act was designed and enacted by the General Assembly to avoid exactly this type of wasteful duplication, and the issue above is directly relevant in the Commission's construction of the provisions of the Act.

Next, Duke states that the Commission incorrectly found that the 44 kv line is a transmission line. Again, we disagree. The reliable and substantial evidence in the record as set forth above was that the 44 kv "Darby" line, constructed in 1969, never served any distribution customers. Further, the evidence showed that the 44 kv "Bear Swamp" line constructed in 1974 did not serve any distribution customers until it began service to the Steel Heddle plant in 1981, pursuant to the 750 kw load provisions. During the hearing, Duke's witnesses were unable to name any distribution customers originally served off of the 44 kv "Bear Swamp" line. In fact, the testimony was that the Duke witness was unaware of any line built as a distribution line where no distribution customers were served off of the line for a period of 12 years.

(See testimony of Johnson.) The evidence also showed that the 44 kv "Darby" line and the 44 kv "Bear Swamp" lines originally served as transmission tie lines to the Walhalla tie Station, and that the 44 kv "Bear Swamp" line still serves as a back-up transmission line. (See Affidavit of Mark Johnson.) S.C. Code Ann. Section 58-27-610(3) and our Regulation 103-304 require that the Commission look to the primary purpose of the line at the time it was constructed to determine its character as transmission or distribution. Our finding was therefore clearly supported by the evidence of record.

Duke states that our earlier Order failed to address all of its claims, including its corridor rights under S.C. Code Section 58-27-630 and the 1972 Order issued by us. We believe that we correctly found that no corridor rights resulted from the Code section and the Order.

Duke further alleges that this Commission was incorrect in finding that the 44 kv "Darby" line no longer exists. Again, we disagree. The evidence in the record as set forth above was that the 44 kv "Darby" line was replaced by a 100 kv line. A second 44 kv line, the "Bear Swamp" line, was constructed on poles separate from the poles on which the "Darby" line was placed. There was no testimony that the 44 kv "Darby" line currently operates at 44 kv on the towers constructed in 1969. Our finding in this regard is supported by the reliable, probative, and substantial evidence of record.

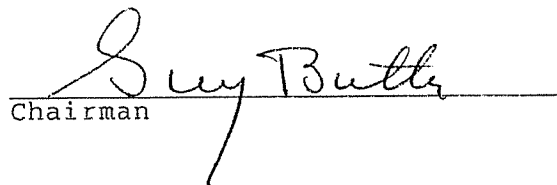
Lastly, Duke states that the Commission was in error, in that

it disregarded the 1972 Order, and in interpreting its own prior Order. Duke presented the argument to the Commission that the Commission in its 1972 Order left a 600 foot swath of unassigned territory in the middle of Blue Ridge assigned territory. It is uncontroverted that there is no evidence in the record that this was the agreement or intent of the parties. Further, Exhibit A to the 1972 Order, which is a map, showing the areas of territorial assignment, do not show by markings or otherwise that this area is unassigned. In fact, Exhibit A shows the territory in this area as assigned to Blue Ridge. The 1972 Order was a form Order used by the Commission state-wide in its adjudications pursuant to the Territorial Assignment Act. The language cited by Duke merely tracks the language of the Territorial Assignment Act, and does not give Duke any rights or privileges beyond that within the Act. In fact, Duke's interpretation is in direct conflict with the provisions of the Act, which establishes in detail how areas within 300 feet from an electric supplier's lines may be serviced. Duke's contentions that the Commission intended or attempted to replace these provisions is certainly not reasonable, nor is it supported by Exhibit A. The Commission is not prevented by res judicata, collateral estoppel, or estoppel by judgment from interpreting its own orders, nor was the Commission's decision in this matter made upon unlawful procedure. Thus, this last contention by Duke is without merit.

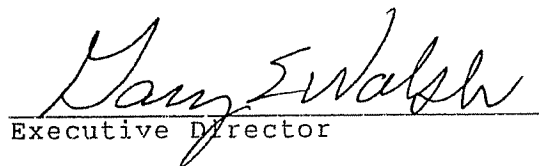
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Having found that the allegations of Duke's Petition are without merit, we hereby deny said Petition. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2003-273-E

IN RE:

Aiken Electric Cooperative, Inc.,
Complainant,
vs.
South Carolina Electric & Gas
Company,
Respondent.

REBUTTAL TESTIMONY OF GARY
STOOKSBURY

1 **Q: Please state your name and your business address for the**
2 **Commission.**

3 A: Gary Stooksbury, Aiken Electric Cooperative, Inc., Post Office Box 417,
4 2790 Wagener Road, Aiken, South Carolina, 29802.

5 **Q: Did you previously file Direct testimony in this matter?**

6 A: Yes.

7 **Q: As the Chief Executive Officer Of Aiken Electric Cooperative what**
8 **does your position entail?**

9 A: I am ultimately responsible for the day to day activities of the
10 Cooperative. This includes not only managing the Cooperative but also,
11 reviewing maps of Aiken Electric's service territory, determining
12 Cooperative service rights, and keeping abreast of legal and statutory

1 issues that affect Aiken Cooperative and its members. Additionally, as
2 the Chief Executive Officer of Aiken Electric, I have authority to speak on
3 behalf of the corporate entity through my pre-filed and rebuttal
4 testimony with the Commission.

5 **Q: Have you reviewed the pre-filed testimony of the SCE&G witnesses?**

6 A: Yes.

7 **Q: Do you agree with the statements in Russell Harris's pre-filed**
8 **testimony?**

9 A: No, there are several areas in Russell Harris's pre-filed testimony that I
10 do not agree with based on my recollection and the facts currently before
11 the Commission. For example on P. 5 l. 18 – P. 7 l. 9, Mr. Harris testifies
12 that it was his understanding that I accepted SCE&G's offer to
13 characterize the 46kV line as distribution. This is simply not the case, at
14 no time did Aiken Electric ever agree with SCE&G that the 46kV tie line
15 extending in front of the Norway Medical Clinic and Hunter Kinard Tyler
16 School (HKT) carried corridor rights. Additionally, I am not aware of any
17 executed contractual agreement indicating that the 46kV line is
18 distribution.

19 On P. 2 l. 20 - P. 6 l. 2, Mr. Hammond also testifies that I informed him
20 that I was not certain whether the 46kV line was located on the A-sheets.
21 I do not believe this is an accurate statement as I never informed him
22 that Aiken was uncertain if the line was on the A-sheets. This statement
23 is highly unusual as Aiken Electric has no reason to be concerned about

1 whether the line was located on the A-sheets. Rather, Aiken was
2 concerned about whether the line was being used for transmission
3 purposes on July 1, 1969. As A-sheets contain transmission and
4 distribution lines, the fact that a line may or may not be located on a
5 map has no bearing on whether the line was used for distribution or
6 transmission as of July 1, 1969.

7 As stated in my initial pre-filed testimony, SCE&G asserted the same
8 argument in the Palmetto matter¹ and the Commission specifically
9 rejected SCE&G's position in Commission Order No 2003-635 attached
10 to my initial pre-filed testimony as Exhibit D, the maps are not binding
11 contracts.

12 I also disagree with Mr. Harris's new contention on P. 7 l. 10 - P. 9 l. 18,
13 that he did not intend to bind SCE&G with the statements in his
14 November 8, 2000 letter to Aiken Electric. Although, Mr. Harris now
15 appears to change his position, the letter speaks for itself, Mr. Harris
16 specifically represented to Aiken Electric:

17 In your letter to Tom Arthur and in our meeting, you
18 referenced the PSC ruling on Blue Ridge v. Duke. In
19 that case, the particular transmission line carried no
20 corridor. I am familiar with the ruling, and also that
21 Duke filed an appeal.

22
23 **In the interim, SCE&G will serve no additional**
24 **customers from the existing line that serves the**
25 **Hunter-Kinard-Tyler School and the Norway**
26 **Medical Clinic, where it was determined that**
27 **service rights were obtain (sic) from the 46kV line.**
28

¹ See SCE&G v. Palmetto Electric Cooperative, 2002-192-E.

1 Sincerely,
2 Don R. Harris

3
4 cc: Clarence Wright
5 Catherine Taylor

6
7 (See Exhibit F to my Pre-Filed Testimony)(emphasis added).
8

9 Clearly, Mr. Harris was referring to my contentions regarding the
10 Commission's ruling in the Duke v. Blue Ridge case, not some generic
11 settlement offer. Otherwise, Mr. Harris would have never stated that
12 SCE&G would not assert additional corridor rights until the Appellate
13 Court addressed the issue.

14 Additionally, I disagree with Mr. Harris's statement that he did not
15 intend to bind SCE&G with his statement in the above letter. He
16 represented to me that he was authorized to speak on behalf of SCE&G,
17 in fact, he even copied SCE&G's legal counsel Catherine Taylor on the
18 letter. Had he not been authorized to limit SCE&G's rights on the line, or
19 his assertion premised on a settlement of some sort, SCE&G would have
20 retracted the letter. To my knowledge, they have not; accordingly, the
21 document speaks for itself.

22 The South Carolina Supreme Court has now addressed the issue
23 affirming Aiken Electric's understanding in the correspondence with Mr.
24 Harris. As I stated in my deposition, for a line to possess a corridor, it
25 must have been used for distribution purposes as of July 1, 1969.
26 SCE&G's 46kV line extending in front of the HKT School and Norway
27 Medical Clinic does not possess a corridor as it was used for nothing

1 more than transmission, linking and tying SCE&G's facilities in Norway
2 to Springfield, South Carolina.

3 **Q: Have you reviewed Exhibit 7 to Mr. Croft's deposition?**

4 A: Yes, it is my understanding from reviewing the records between SCE&G
5 and Aiken Electric that both providers agreed that *tie lines* did not carry
6 corridor rights. The territorial agreement specifically states that:

7 **Tie lines, which are lines built not to serve**
8 **customers but to connect two portions of an**
9 **electric supplier's system, shall not receive**
10 **corridor rights.**
11

12 See, Exhibit X to my Rebuttal Testimony, 1971 Power Company/Electric
13 Cooperative Agreement (emphasis added).

14 **Q: Do you agree with the Statements in Mr. Young's pre-filed**
15 **testimony?**

16 A: No, throughout P. 3 l. 4 - P. 13 l. 17, Mr. Young completely ignores the
17 present facts before the Commission in order to reach a conclusion that
18 supports SCE&G's position in this matter. SCE&G has criticized my
19 testimony moving to strike a great majority of my pre-filed testimony as I
20 was not involved in the territorial assignment process. Mr. Young started
21 with SCE&G in 1975, after the territorial assignment process was
22 concluded, as such he has no personal experience dealing with territorial
23 assignment yet proffers a present day opinion based upon Federal
24 Energy Regulatory Commission standards to determine what the status

1 of a line under South Carolina law during territorial assignment in 1969
2 to 1973 may have been.

3 Unlike Mr. Young, Aiken Electric contends that the Commission should
4 use the factors that the South Carolina Supreme Court used in the Duke
5 v. Blue Ridge case in order to determine whether the line serving the HKT
6 school and the Norway Medical Clinic carried a corridor as it existed on
7 July 1, 1969.

8 Gary Stooksbury
9 Chief Executive Officer

1 **SURREBUTTAL TESTIMONY**
2 **OF**
3 **GROVER C. CROFT, JR.**
4 **ON BEHALF OF**
5 **SOUTH CAROLINA ELECTRIC & GAS COMPANY**
6 **DOCKET NO. 2003-273-E**
7

8 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

9 A. My name is Grover C. Croft, Jr. and my address is 205 Caveson
10 Drive, Summerville, South Carolina.

11 **Q. WERE YOU FORMERLY EMPLOYED BY SOUTH CAROLINA**
12 **ELECTRIC & GAS COMPANY?**

13 A. Yes. I was employed by South Carolina Electric & Gas Company
14 ("SCE&G" or "Company") from 1949 until 1989, and retired as the Vice
15 President of Transmission and Distribution Engineering.

16 **Q. DID YOU CAUSE TO BE FILED DIRECT TESTIMONY IN THIS**
17 **DOCKET?**

18 A. Yes, I did.

19 **Q. PLEASE BRIEFLY SUMMARIZE YOUR PREFILED DIRECT**
20 **TESTIMONY.**

21 A. SCE&G's 46 kilovolt ("kV") line between Springfield and Norway
22 ("Springfield Line" or "Line") was functioning as a distribution line prior to
23 July 1, 1969, and its function as a distribution line was agreed to by Aiken

1 Electric Cooperative, Inc. ("Aiken Cooperative") in our territorial
2 assignment negotiations. In addition to my personal knowledge of this
3 46kV line, it is my expert opinion that the primary purpose and use of this
4 conductor at that time was for the distribution of electric power and not for
5 the transmission of bulk power from one area to another.

6 **Q. HAVE YOU REVIEWED THE REBUTTAL TESTIMONY FILED BY**
7 **AIKEN ELECTRIC COOPERATIVE IN THIS DOCKET?**

8 A. Yes, I have reviewed the rebuttal testimony filed by Phil Lindsey,
9 James Bell, and Ron Calcaterra.

10 **Q. MR. LINDSEY ACCUSES YOU OF TAKING "CONFLICTING**
11 **POSITIONS." IS THAT ACCURATE?**

12 A. No. I have not taken conflicting positions. Mr. Lindsey
13 misapprehends what was said and the South Carolina Territorial
14 Assignment Act ("Act") itself. Under the Territorial Assignment Act, a line
15 in excess of 25kV and less than 48kV is a line entitled to corridor rights.
16 Under the last proviso of the definition of "line" in the Act, such a line does
17 not have exclusive rights to serve premises wholly within 300 feet unless
18 and until it is proven to be primarily a distribution line. For lines 25kV or
19 less, and for lines in excess of 25kV and less than 48kV that have been
20 agreed-upon as distribution lines or which the Commission has found to
21 be distribution, service to a premises wholly within 300 feet is exclusive.
22 These principles are easier to understand through a table. For premises
23 wholly within 300 feet of a "line":

	Line is: 25kV or Less	Line is: Greater than 25kV and Less than 48kV	Line is: Greater than 25kV and Less than 48kV AND Agreed or Found to be a Distribution Line
Exclusive Service Right	X		X
Non-exclusive Service Right		X	

1
2 Nonetheless, the criticism by Mr. Lindsey on this point is irrelevant. In this
3 matter, the HKT School and the Norfield Medical Clinic each enjoyed a
4 customer choice situation regardless of the fact that one is wholly within
5 300 feet of the Springfield Line because Aiken Cooperative has a nearby
6 line with an overlapping corridor. That renders Mr. Lindsey's criticism
7 moot.

8 As I previously testified, Aiken Cooperative agreed that the Line
9 was a distribution line and the Commission found that the Line was a
10 distribution line in its order dated September 6, 1973. See Exhibit __
11 (GCC-25) (attached to Prefiled Direct Test.). The Line was a distribution
12 line and for premises locating wholly within 300 feet of the Line, SCE&G
13 has an exclusive right to serve. Even if that were not the case, it is
14 undisputed that the Line existed on July 1, 1969, and operates at voltages
15 between 25kV and 48kV; therefore the 46kV line would have had non-
16 exclusive service rights when the HKT School and Norfield Medical Clinic
17 were provided service. However, as I have explained, on this segment of
18 the Line, Aiken Cooperative has a line nearby, which results in a customer

1 choice situation from the overlapping 300-foot corridors regardless of
2 whether Aiken Cooperative had agreed to the Line's distribution character
3 or not.

4 **Q. MR. LINDSEY ALSO STATES THAT YOU "NEGLECT TO MENTION"**
5 **HIS PURPORTED INVOLVEMENT WITH TERRITORIAL ASSIGNMENT.**
6 **HOW DO YOU RESPOND?**

7 **A.** I did not neglect to mention him. I do not recall having any
8 interactions with Mr. Lindsey. He was not involved in actually negotiating
9 territory or territorial assignment issues with SCE&G. I was the lead
10 territorial assignment negotiator for SCE&G in all of the Company's 24
11 counties, and never recall dealing with Mr. Lindsey. Mr. Lindsey does not
12 list Orangeburg County as a county that he did any work with, and that is
13 the county at issue in this matter. After I reviewed the historical
14 documents in this matter again, I still cannot find Mr. Lindsey's name on
15 any document or map related to territorial assignment in Orangeburg
16 County.

17 I understand from his testimony that he was a draftsman during the
18 time period of territorial assignment, which is an entry level position.
19 Whatever role Mr. Lindsey played in territorial assignment on behalf of
20 Southern Engineering, it did not involve negotiations with SCE&G. Barney
21 Snowden was the individual at Southern Engineering who dealt with
22 substantive territorial assignment issues and who, with James Bell,
23 negotiated the territory in Orangeburg County on behalf of Aiken

1 Cooperative. I do not recall Mr. Lindsey's presence at any negotiating
2 session, including those for Orangeburg County.

3 Again, I did not "neglect" Mr. Lindsey. The facts are he simply did
4 not have a substantive role in territorial assignment and in particular with
5 territorial assignment in Orangeburg County. For example, Mr. Lindsey
6 testifies that he "commonly" used the midpoint analysis in territorial
7 assignment. While that may have been true in other states, in 1972 this
8 Commission specifically rejected the midpoint analysis approach for use
9 with territorial assignment in South Carolina. This further illustrates Mr.
10 Lindsey's unfamiliarity with and lack of knowledge of the territorial
11 assignment process in South Carolina.

12 **Q. WHAT WAS MEANT WHEN THE COOPERATIVES AND THE**
13 **ELECTRIC UTILITIES AGREED THAT TIE LINES WOULD NOT HAVE**
14 **CORRIDOR RIGHTS, AND DO YOU AGREE WITH THE ASSERTIONS**
15 **BY AIKEN COOPERATIVE'S WITNESSES THAT THE SPRINGFIELD**
16 **LINE WAS A TIE LINE?**

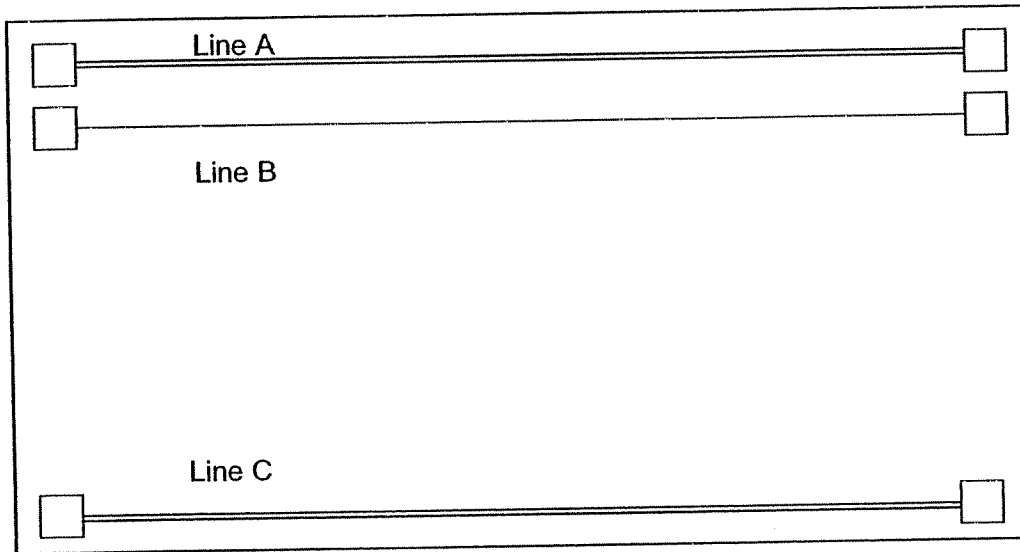
17 **A.** The fact is that the Aiken Cooperative witnesses characterize the
18 Springfield Line as a tie line but offer no reason or rationale for that
19 characterization.

20 From an engineering perspective, a tie line has specific
21 characteristics, all of which are absent from the Springfield Line. A tie line
22 could be powered from either end to provide power for radial distribution
23 lines whose source of power had been interrupted. In this function, a tie

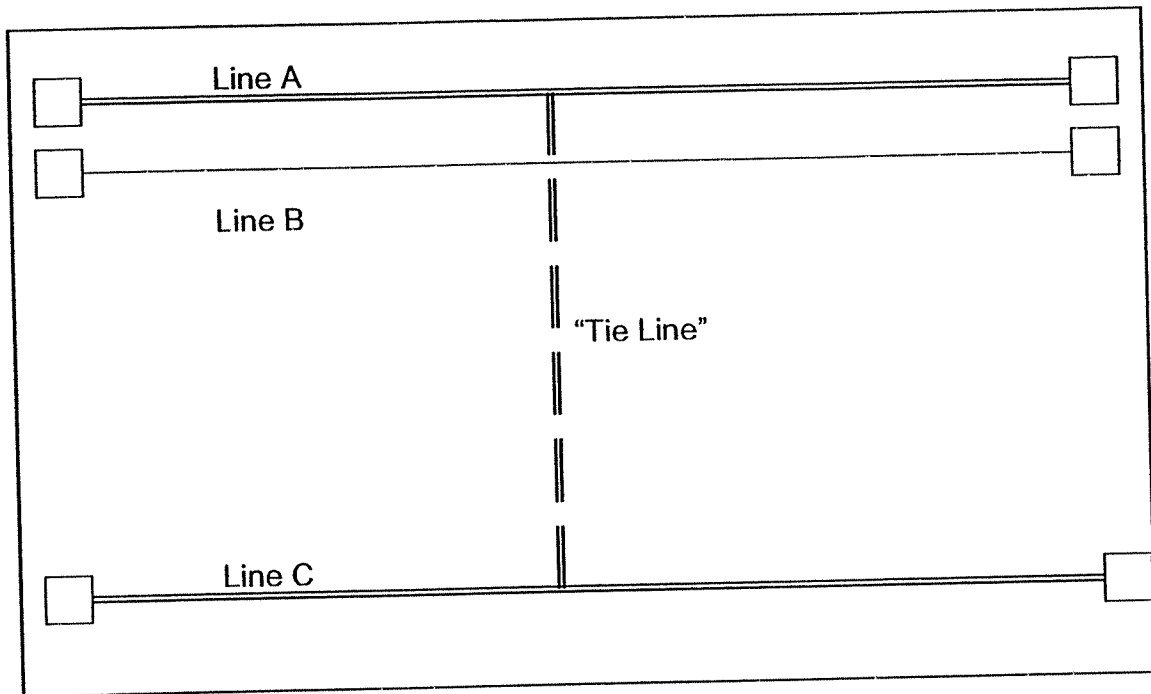
1 line had the ability to flow power back and forth in either direction between
2 lines and system areas, and that was its normal operating function. In
3 contrast, in the normal operation of the Springfield Line, the load flowed
4 (and I understand still flows) in only one direction and operated (and
5 operates) as a distribution line to carry customer load and serve
6 customers on a daily basis. The Springfield Line did not perform the
7 function of a tie line.

8 Aside from an engineering perspective, there is also a context
9 specific to territorial assignment. In a five-point agreement between the
10 electric cooperatives and the investor owned electric utilities signed in late
11 1971 ("Five Point Agreement"), under point three tie lines were excluded
12 from carrying corridor rights, because, as we defined and interpreted the
13 term "tie line" in the territorial assignment timeframe, a function of a tie line
14 was not to distribute power to customers but to interconnect two portions
15 of the supplier's system. See Exhibit ____ (GCC-26). The Territorial
16 Assignment Act provides that extensions of distribution lines to serve
17 customers carry corridor rights and also that assignment of territory was
18 made 300 feet from the lines that existed as of the date of assignment of
19 territory. A liberal reading of the Act could lead the cooperatives and the
20 utilities to expend a great deal of time and resources constructing lines
21 prior to the time that the assignment of service area was made by the
22 Commission and during the negotiations to try and justify claims to greater
23 amounts of territory by constructing an electric line whose purpose was

1 not to serve any customer but just to connect two other lines. And in fact
2 this was occurring. See Exhibit __ (GCC-27). For example, take the
3 following situation, in which lines A and C belong to the same electric
4 supplier and Line B belongs to a different supplier.



5
6 In order to make a greater claim to the territory between lines A and C and
7 around line A, that supplier could construct a line between lines A and C
8 that "ties" the lines together and then claim a corridor from that "tie line" as
9 well as assignment of the surrounding area. This "tie line" is represented
10 by the dotted line below.



1
2 The Five Point Agreement between electric suppliers helped prevent a
3 construction boom on lines and avoid any further duplication of facilities
4 and unnecessary investments by the electric suppliers.

5 The Five Point Agreement provided a sense of certainty and
6 stability about the location of lines and facilities during the negotiating
7 process. For example, in Orangeburg County SCE&G negotiated first with
8 Edisto Cooperative and then with Aiken Cooperative, and this agreement
9 would provide a degree of reassurance to SCE&G that while it was
10 negotiating with Edisto Cooperative, Aiken Cooperative was not building
11 out its system in preparation for its forthcoming territorial assignment
12 negotiating sessions with SCE&G.

13 Notably, the Five Point Agreement applied only to "situations
14 developing after" the effective date of the Five Point Agreement. The
15 Springfield Line was first constructed in the late 1920s. Clearly it does not

1 qualify as a "tie line" within the definition ascribed to a tie line for purposes
2 of the territorial assignment process.

3 **Q. DID THE SPRINGFIELD LINE TRANSMIT BULK POWER IN 1969?**

4 A. No. As I have previously testified, the Springfield Line was used for
5 the distribution of power to the SCE&G customers in that service area. By
6 1969 all of SCE&G's 46kV lines functioned as distribution lines. The 46kV
7 lines, and specifically those in Orangeburg County, were not
8 interconnected with other electric utilities at that time and were not used to
9 transport "bulk power" from a generating facility or "bulk power" that was
10 being marketed or resold. These 46kV lines were specifically functioning
11 to distribute power to SCE&G's customers.

12 **Q. THE AIKEN COOPERATIVE WITNESSES OFFER DUPLICATIVE**
13 **TESTIMONY THAT AIKEN COOPERATIVE DID NOT AGREE THAT**
14 **THE SPRINGFIELD LINE IS A DISTRIBUTION LINE, AND POINT TO**
15 **SEVERAL MEMOS AND LETTERS THAT YOU AUTHORED OR**
16 **RECEIVED. HOW DO YOU RESPOND TO THAT TESTIMONY?**

17 A. Aiken Cooperative did in fact agree that the Line is a distribution
18 line. Ironically, Aiken Cooperative's witnesses criticize me for explaining
19 what Mr. Snowden and I meant when we discussed "substantial corridor"
20 and assert that the "document speaks for itself," and yet they spend a
21 great deal of effort twisting the facts to avoid the plain and unambiguous
22 meaning of the map documenting the distribution lines of SCE&G and
23 cooperatives, including the Springfield Line. As they say, the "document

1 speaks for itself," and Aiken Cooperative agreed that the Springfield Line
2 was a distribution line, as is clearly evident on the legend from the Exhibit
3 A map approved by the Commission on September 6, 1973, Map Exhibit
4 No. 3 (Commission Approved Orangeburg County Territorial Assignment
5 Map (1973)), which is set forth below:

THIS MAP SHOWS THE ELECTRIC DISTRIBUTION LINES OF THE SOUTH CAROLINA ELECTRIC & GAS CO. AND THE ELECTRIC COOPERATIVES LISTED BELOW AS HAVING BEEN VERIFIED AND APPROVED AS OF <u>DEC. 1</u> , 1970	
FOR SOUTH CAROLINA ELECTRIC & GAS CO.	
BY <u>C. J. Dwyer</u>	<u>3/3/71</u> Date
FOR AIKEN ELECTRIC COOPERATIVE INC.	
BY <u>R. E. Hornsby</u>	<u>3/22/71</u> Date
FOR BERKELEY ELECTRIC COOPERATIVE INC.	
BY <u>Robert L. Wiggins</u>	<u>3/5/71</u> Date
FOR EDISTO ELECTRIC COOPERATIVE INC.	
BY <u>J. L. ...</u>	<u>3/9/71</u> Date
FOR TRI-COUNTY ELECTRIC COOPERATIVE INC.	
BY <u>W. H. ...</u>	<u>3-9-71</u> Date

6
7 Aiken Cooperative looks to two specific letters to James Bell, one
8 from Mr. A.J. Perrone and one from me, regarding representations about
9 the signature on the map prepared by the electric suppliers showing all the

1 distribution lines in Orangeburg County. When viewed in context, neither
2 letter supports Aiken Cooperative's position.

3 As I previously testified, the Commission issued an order on
4 September 8, 1969, Order No. E-1,044, that instructed the electric
5 suppliers to prepare maps showing "lines" under the Territorial
6 Assignment Act and to file those maps with the Commission. SCE&G was
7 tasked with preparing that map for Orangeburg County. Orangeburg
8 County had five electric suppliers – SCE&G and four cooperatives.
9 SCE&G prepared the county map showing just the electric distribution
10 lines of the five electric suppliers, including SCE&G's Springfield Line and
11 the 46kV system. Mr. Bell visited the SCE&G office on September 16,
12 1970, to deliver an update to the line map, which at that time was a work-
13 in-progress. He spoke with Mr. A.J. Perrone, who was involved with the
14 mapping process for SCE&G, and asked about the signature on the line
15 map. As Mr. Perrone indicated in his letter to Mr. Bell on September 17,
16 1970, and as Mr. Perrone's memorandum to me of that same date
17 indicates, the signature on the map was Aiken Cooperative's agreement
18 as to the lines of Aiken Cooperative and SCE&G. See Exhibit __ (GCC-
19 28).

20 SCE&G certainly did not expect Aiken Cooperative to expend the
21 resources to verify lines of the other three cooperatives. The boundaries
22 of the cooperatives were established. The only lines that had any real
23 meaning or implication for Aiken Cooperative and for which Aiken

1 Cooperative should verify for accuracy were those of Aiken Cooperative
2 and SCE&G, or as Mr. Perrone noted in his letter to Mr. Bell, "your lines
3 and our lines." Apparently Mr. Bell wanted to "qualify his approval" to only
4 include certain of SCE&G's lines. He also requested that Mr. Perrone
5 provide the Orangeburg County maps "as soon as possible" so that Aiken
6 Cooperative "could begin field checking [SCE&G's] line." And Mr. Bell
7 testifies that he "visually inspected the [Springfield] line" during the
8 territorial assignment period. This indicates that Mr. Bell and Aiken
9 Cooperative unequivocally understood that the signature on the map
10 showing the lines of the electric suppliers included agreement as to
11 SCE&G's lines, and all of this discussion took place 6 months prior to
12 Aiken Cooperative's agreement and signature on the map, see Map
13 Exhibit No. 1 (Orangeburg County Line Map (1971)), allowing Aiken
14 Cooperative ample time to field check SCE&G's lines as well as its own.

15 Furthermore, Mr. Bell wholly ignores my letter to him dated
16 September 24, 1970, which followed-up on his visit to SCE&G's offices. In
17 response to his request about the meaning of the signature on the line
18 map, I specifically referenced for Mr. Bell the memorandum of agreement
19 between the cooperatives and the electric utilities, which I believe clearly
20 answers this issue. The October 22, 1969, agreement specifically
21 requires the "agreement by all suppliers that the county map is accurate"
22 after the electric supplier has reviewed the map and suggested changes,
23 which is exactly what was done. See Exhibit __ (GCC-2) (attached to

1 Prefiled Direct Test.). That agreement also requires that "[e]ach map will
2 show the lines, as defined in the 1969 Act." In other words, Aiken
3 Cooperative was well aware that each line on the map carried corridor
4 rights because it was a "line" under the Act.

5 Aiken Cooperative also points to my letter of March 18, 1971, to Mr.
6 Bell, in which I stated: "The fact that the line in question is shown on the
7 map, in my opinion, simply means that the line does exist. The service
8 rights on this line will have to be determined in our negotiations." Mr. Bell
9 had previously advanced the position that lines that had been dismantled
10 were still entitled to corridor rights. SCE&G disagreed with this position,
11 as did Aiken Cooperative's other negotiator, Barney Snowden. See
12 Exhibit No. ___ (GCC-29). In fact, Mr. Bell advanced the position that if a
13 line had been moved, service rights for the corridor and a claim to
14 surrounding area existed where the line was originally located **but no**
15 **longer existed AND** where the line had been relocated. This position
16 was rejected by SCE&G as contrary to the Act. See S.C. Code Ann. § 58-
17 27-640. The March 18 letter does nothing more than reflect the Act's and
18 SCE&G's contention that only **existing** lines were reflected on the line
19 map and that the service rights and claims to surrounding areas would be
20 negotiated.

21 Aiken Cooperative was bound by an agreement that the line map
22 would contain "lines" under the Territorial Assignment Act – lines which
23 carried corridor rights. Aiken Cooperative participated in the preparation

1 of the line map. Aiken Cooperative field-checked SCE&G's lines for
2 accuracy on the line map. Aiken Cooperative signed the legend indicating
3 that the lines on the line map were distribution lines. In fact, Mr. Bell
4 testifies that he is "very familiar with that stretch of line," indicating that Mr.
5 Bell was fully aware of the nature and character of the Springfield Line and
6 the meaning of its inclusion on the line map signed in March 1971 and on
7 the territorial assignment map filed jointly with the Commission for its
8 approval in July 1973. See Exhibit __ (GCC-24) (attached to Prefiled
9 Direct Test.).

10 I am also aware that Aiken Cooperative relies on my memorandum
11 of October 9, 1970, written with regards to negotiations with Edisto
12 Cooperative in Orangeburg County. Mr. Snowden represented Edisto
13 Cooperative in those negotiations with SCE&G. Aiken Cooperative has
14 wholly misrepresented the memorandum. As the memorandum makes
15 clear, SCE&G steadfastly maintained that the 46kV lines were distribution
16 lines. There was never a question about whether the lines on the map
17 had corridor rights. However, as I previously explained, SCE&G had an
18 exclusive right to serve premises locating wholly within 300 feet of either
19 side of those agreed-upon distribution lines. SCE&G's position was useful
20 to Mr. Snowden for his negotiating strategy, prompting his inquiry.
21 Furthermore, the memorandum represents that SCE&G was going to
22 negotiate for an assignment of service territory to SCE&G in the areas
23 surrounding those 46kV lines, with unassignment of that area as a last

1 resort. A good example of this is SCE&G's contention for a large corridor
2 of unassigned territory along the Springfield Line. See Map Exhibit No. 2
3 (SCE&G Working Map).

4 The lines on the 1971 and the 1973 maps carried corridor rights.
5 As this Commission has previously held, the Act itself assigns a 600-foot
6 corridor to each line and that corridor survives the assignment of territory.
7 A corridor right is a statutory right. Aiken Cooperative's current assertion
8 that they had the power to grant such a right flies in the face of the
9 Territorial Assignment Act. The 600-foot corridor right (300 feet on either
10 side of the line) was conferred by statute on every line that appeared on
11 the line map, and this was recognized by the Commission. Aiken
12 Cooperative could agree – as they did in Orangeburg County and every
13 county in which SCE&G and Aiken Cooperative shared service territory –
14 that the lines were distribution lines and carried exclusive service rights for
15 premises wholly within 300 feet, but no electric supplier had veto authority
16 over corridor rights altogether as Aiken Cooperative insists.

17 **Q. HOW DO YOU RESPOND TO MR. CALCATERRA'S**
18 **CHARACTERIZATION OF WHAT YOU SAID AND MEANT IN YOUR**
19 **MEMORANDUM DATED SEPTEMBER 8, 1970?**

20 **A.** Mr. Calcaterra mischaracterizes the words of the memorandum.
21 Due to the wholesale mischaracterization of the memorandum by Mr.
22 Calcaterra, it is worth restating that portion of the memorandum verbatim.
23 In negotiations with Edisto Cooperative, whose General Manager was Bob

1 Smith, a question arose about a 46kV line. My memorandum reflects the
2 discussion that follows.

3 I asked Bob if he would consider the 46 KV line that
4 runs from Sweden through Denmark, through Govan,
5 on through Olar, as having corridor rights. I
6 mentioned the retail customers that we serve off of
7 this line again. Bob said that he did not feel that
8 made this line a distribution line. He stated that there
9 were substations located at these points of service. I
10 explained to Bob that while there were substations,
11 they served a single customer and were not built for
12 distribution of power to other customers, that they
13 constituted a retail customer. He made further
14 comment on this line and did not positively agree or
15 disagree to its having corridor rights. I explained to
16 Bob again that we had committed our 46 KV lines to
17 serve distribution customers and that we fully
18 intended to serve any distribution, that we had the
19 opportunity, from these lines.

20 Exhibit __ (GCC-9) (attached to Prefiled Direct Test.).
21

22 Mr. Calcaterra uses this memorandum to try and support his assertion that
23 a retail customer served directly off a line is somehow determinative of the
24 distribution status of a line. However, Edisto Cooperative, as did the other
25 cooperatives and electric utilities, disagreed with a "customer litmus test,"
26 which is what Aiken Cooperative is trying to apply in this case.

27 The 46kV line I was referring to ran through several distribution
28 substations that distributed power to SCE&G's customers. The single
29 customer substation that was referred to was the Sweden substation that
30 was constructed for the Sweden gin facility. Mr. Calcaterra's assertion
31 that I indicated the 46kV lines in the area were not built for the distribution
32 of power to other customers is flat wrong, as can be easily ascertained by

1 reading the actual language of the memo. What I clearly state is "that
2 while there were substations, they served a single customer and were not
3 built for distribution of power to other customers." It is the substation that
4 was built for a single customer, not the 46kV line. In fact, I then
5 affirmatively state that SCE&G "had committed [its] 46 KV lines to serve
6 distribution customers." Mr. Calcaterra misstates and distorts the
7 memorandum. In fact, the lines under discussion had corridor rights,
8 evidenced by the inclusion of those lines on the 1971 line map and the
9 1973 territorial assignment map approved by the Commission, and are still
10 operated as distribution lines by SCE&G today, just as they were in 1969.

11 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

12 A. Yes.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-192-E - ORDER NO. 2003-635
OCTOBER 23, 2003

IN RE: South Carolina Electric & Gas Company,)	ORDER DENYING
)	AND DISMISSING
Complainant,)	COMPLAINT
)	
vs.)	
)	
Palmetto Electric Cooperative, Inc.,)	
)	
Respondent.)	

This matter came before the Public Service Commission of South Carolina ("the Commission") on a Complaint filed by South Carolina Electric & Gas Company ("SCE&G") against Palmetto Electric Cooperative, Inc. ("Palmetto" or the "Coop."), seeking a determination that Palmetto was not entitled to provide service to the Walsh facility, and that Walsh was required to take service from SCE&G. A hearing was held on August 12, 2003, in the offices of the Commission, with the Honorable Mignon Clyburn, Chair, presiding. SCE&G was represented by Francis P. Mood, Esquire, Catherine D. Taylor, Esquire, and Dahli Myers, Esquire. Palmetto was represented by Val H. Steiglitz, Esquire and J. David Black, Esquire. The Commission Staff was represented by F. David Butler, General Counsel.

SCE&G presented the direct and rebuttal testimony of Kenneth L. Ackerman, III, and the rebuttal testimony of David Tempel, Jr. Palmetto presented the direct testimony of A. Berl Davis, Jr., Keith DuBose, G. Thomas Upshaw, and John Walsh. The Commission Staff did not present any witnesses in this case. The positions of the parties are summarized below.

This is a case involving corridor rights. SCE&G maintains that the Walsh facility is located in its assigned territory and that it, therefore, has the exclusive right to serve, pursuant to S.C. Code Ann. § 58-27-620 *et seq.* (1976)(the Territorial Assignment Act). SCE&G further maintains that the distribution line giving rise to the corridor upon which Palmetto claims its right to provide service does not appear on the “A-Map” for this area and, therefore, no corridor exists. While SCE&G acknowledges that the “A Map” may be incorrect, it contends that the “A Map” constitutes a “binding agreement” between the parties, such that the Commission is precluded from correcting it even if it is wrong.¹ Finally, SCE&G asserts that Palmetto should be denied the right to serve because it extended service to the Walsh facility without first obtaining Commission approval, which SCE&G contends is required by Reg. 103-304.

Palmetto acknowledges that the distribution line upon which it bases its claim of corridor rights to serve the Walsh facility was left off the “A Map” for this area. Palmetto maintains, however, that “A Maps” carry no binding legal authority, are merely illustrative of where a distribution line may or may not be located, and may (and should)

¹ At the August 12th hearing, however, SCE&G witnesses did indicate that an incorrect “A Map” should be corrected, (Tr. p. 34, lines 3-9; p. 35, lines 5-14), through “proper procedure.”

be corrected when determined to be incorrect. Palmetto asserts that the Territorial Assignment Act provides for corridors surrounding distribution lines as they existed as of the date of the Act (July 1, 1969), and not based upon whether the line appears on an “A Map” or not. Since the existence of a corridor gives a customer the right to choose suppliers, Palmetto points out that the net effect of SCE&G’s position would be to deprive Walsh – and other similarly situated electric customers – of their statutory right to take service from the provider of their choice, based purely upon a mistake in an “A Map.” Palmetto also contends that SCE&G waived any right to deny Palmetto’s corridor rights here, or is estopped from doing so, because SCE&G consented to Palmetto providing service to a mini-warehouse facility in 1994, located in the same exact territory which SCE&G now claims is its exclusive territory. In sum, Palmetto asserts that the physical footprint of the Walsh facility building is within the 300-foot corridor of a Palmetto 1965 distribution line that was mistakenly left off the “A Map” and that Palmetto has the right to serve the Walsh facility as one premises pursuant to S.C. Code Ann. § 58-27-620(1)(d)(iii) (1976). With respect to Reg. 103-304, Palmetto contends that this regulation cannot override or restrain the statutory right of a service provider to extend service to meet a customer choice in a corridor, as provided by the Territorial Assignment Act, which does not require Commission notice or approval prior to extending such service.

After careful consideration of the pleadings, the witnesses’ testimony (the entirety of the record, not just the transcript citations herein), exhibits, arguments of counsel, and

the applicable law, the Commission finds and concludes that Palmetto is entitled to serve the Walsh facility, for the reasons set forth below.

I. FACTUAL BACKGROUND

In 2002, a representative of the Jasper County Economic Development Commission contacted Palmetto about a new manufacturing facility -- Walsh Fabrication -- that was locating in Jasper County. Palmetto and Walsh then discussed the possibility of Palmetto providing electric service to Walsh. (Tr. p. 185, lines 3-10; p. 157, lines 12-16; p. 158, lines 1-15.) Thomas Upshaw, Chief Executive Officer of Palmetto, directed Palmetto staff to take measurements from a Palmetto distribution line in the vicinity of the Walsh facility to ascertain whether the Walsh facility was within the 300-foot corridor of the line, in order to determine whether Palmetto would be able to serve the premises. Palmetto line service technicians Dan Wood and Keith Dubose walked the property on different occasions and took measurements by hand. Also, Berl Davis, Palmetto's Vice-President for Engineering and Operations, directed Ward Edwards, Inc., an engineering and surveying company, to take measurements using a Global Positioning System ("GPS") device to make sure the Walsh premises was within Palmetto's 300 foot corridor. (Tr. p. 76, lines 3-21; p. 77, line 1; p. 185, lines 11-22; p. 186, lines 1-18; p. 202, lines 13-25; p. 203, lines 1-25; p. 204, lines 1-25; p. 205, lines 1-25; p. 206, lines 1-13).

After taking the GPS measurements two times, Ward Edwards, Inc., prepared a certified plat of the property illustrating the footprint of the Walsh Fabrication facility in relation to the Palmetto distribution line and also illustrating the 300-foot exclusive

corridor extending from that line. The plat was certified by Donald R. Cook, Jr., SCPLS #19010 and appears in the record as Exhibit 2. (The document attached as Exhibit 2 in the transcript was actually introduced at the hearing as Upshaw Exhibit 1. It is referred to as Exhibit 2 in this Order since that is how it is marked in the transcript). According to this exhibit, a portion of the Walsh facility is within the Palmetto 300 foot corridor. (Tr. p. 76, lines 19-20). SCE&G does not contest that the Walsh facility is within 300 feet of the Palmetto line as measured by Palmetto. (Tr. p. 45, lines 19-25; p. 46, lines 1, 13-19).

A. History of Palmetto's Distribution Line.

There is substantial evidence that the distribution line from which Palmetto's corridor was measured has been in place since 1965. (Tr. p. 77, lines 4-12). Palmetto Exhibit 3 shows that Palmetto began serving the home of Addie Graham from this line on November 16, 1965. (Tr. p. 81, lines 8-25; p. 82, lines 1-3). This exhibit, which is Mrs. Graham's cooperative membership card, lists an electric meter bearing serial number: "18-253-860." As late as April, 1994, when Keith Dubose, a Palmetto employee, had reason to check, this same meter was still attached to the Graham house. (Tr. p. 166, lines 1-12). Palmetto introduced several other exhibits substantiating the fact that it had been providing service to Mrs. Graham from this line prior to the enactment of the Territorial Assignment Act. See, Exhibit 6, (Palmetto's service record showing that Mrs. Graham's service was disconnected on August 8, 1994) (Tr. p. 84, lines 4-20); Exhibit 7, (a record showing Mrs. Graham's participation in a Palmetto credit program) (Tr. p. 84, lines 21-25; p. 85, lines 1-11); Exhibit 8, (minutes from the December 13, 1965, Palmetto board meeting approving Addie Graham as a member of the Palmetto Cooperative) (Tr.

p. 85, lines 12-25; p. 86, lines 1-7). SCE&G failed to offer any evidence that the Palmetto distribution line did not commence service to the Addie Graham residence in 1965. Therefore, pursuant to S.C. Code Ann. §58-27-620, Palmetto possesses a corridor right extending 300 feet from each side of the Addie Graham distribution line, as it existed on July 1, 1969.

Palmetto established the original position of the Addie Graham distribution line by reference to a 1965 staking sheet (Exhibit 4) (Tr. p. 82, lines 7-21). The position of this original line is reflected as the green line on Exhibit 2. (Tr. p. 92, lines 4-5). The record contains extended testimony on the staking sheet as reliably establishing the original position of the line, and, thus, the measurement of the corridor. The evidence shows that subsequent to 1965, there have been a few minor adjustments in the position of portions of the original line, both upstream and downstream of the location from which Palmetto provides service to Walsh. However, Palmetto testified that the segment of the line from which its service to Walsh extends, and from which Palmetto measured the 300 foot corridor, has not moved since the line was originally constructed. (Tr. p. 209, lines 12-22; p. 178 lines 1-17, 24-25; p. 179 lines 1-9). Therefore, any movements in the position of the line occurred at points unrelated to the point from which the corridor was measured and have no significance. There was no evidence sufficient to rebut Palmetto's evidence on the original location of the line and, therefore, the location of Palmetto's corridor and Walsh's location within the corridor. It is clear that the Walsh facility is within the corridor.

B. The “A Map” Issue.

A portion of Palmetto’s 1965 Addie Graham distribution line was inadvertently and mistakenly omitted from the “A Map.” SCE&G contended that it has maintained service in conformity with the “A Map” since it was signed in 1982. However, as noted, Palmetto has been serving the Graham residence since 1965. Palmetto also offered evidence that it has served several trailer homes near Mrs. Graham’s house from the same line. See, Exhibit 2. SCE&G has not objected to this service. Additionally, it is undisputed that Palmetto provided service from the Addie Graham line to a mini-warehouse, which is shown on Exhibit 2, since at least 1994. (Tr. p. 77, lines 13-25).

In 1994, SCE&G contacted Palmetto and questioned Palmetto’s right to serve the mini-warehouse facility. (Tr. p. 77, lines 20-21; p. 166, lines 1-12). SCE&G took the position that the mini-warehouses were within SCE&G’s exclusive assigned territory. Id. Palmetto representative Keith Dubose met SCE&G representative Kenny Ackerman at the site. DuBose showed Ackerman the Addie Graham membership card and the meter on her house. Id. The parties’ dispute whether SCE&G thereupon conceded that Palmetto had corridor rights that included the mini-warehouses. DuBose testified that Ackerman acknowledged Palmetto’s corridor rights. Ackerman testified he did not. However, it is undisputed that after the meeting between DuBose and Ackerman, SCE&G made no further complaint about Palmetto providing service to the mini-warehouses. Nor is it disputed that Palmetto’s service to the mini-warehouses has expanded since it began, growing from two lights to additional lights and a building, all without objection from SCE&G. (Tr. p. 46, lines 20-25; p. 47, lines 1-25; p. 48, lines 1-

25; p. 49, lines 1-9). SCE&G conceded that this service to the mini-warehouses was, in fact, not consistent with the “A Map.” (Tr. p. 52, lines 5-14).

In addition to the Addie Graham distribution line being left off the “A Map” at issue here, Palmetto testified that it was aware of at least one other occasion on which an “A Map” had omitted a line. (Tr. p. 114, lines 18-21).

Finally, while SCE&G asserted that the “A Map” constitutes an accurate depiction of lines in the area, both SCE&G’s witnesses acknowledged that they had no personal knowledge of the circumstances under which the “A Map” at issue here was created and had no role in preparing it. (Tr. p. 38, lines 18-25; p. 39, lines 1-25; p. 40, line 1; p. 226, lines 19-25).

The “A Maps” are not official documents of the Commission; they were not approved by Order of the Commission as were the individual state county territorial assignment maps; and there was no evidence these “A Maps” were ever filed with the Commission.

C. Palmetto Electric Cooperative’s Service to Walsh Fabrication.

After Walsh chose to receive service from Palmetto, Palmetto ran service from a portion of the existing Addie Graham distribution line – from a segment of the line that was in the same location as it was prior to 1969 – to the Walsh facility, via an overhead and underground line.

SCE&G then brought this action, seeking a ruling that this service was improper.

II. LAW AND ANALYSIS

A review of the applicable statutes and case law, as applied to the entire record in this case, shows that Palmetto is entitled to serve the Walsh facility.

A. **The 1969 Territorial Assignment Act Confers Corridor Rights Based Upon Lines As They Exist At The Time Of The Act – Not As They Are Shown On Later Maps.**

SCE&G's position on the "A Maps" amounts to asking the Commission to disregard the statute. Under the Territorial Assignment Act, SC Code § 58-27-640 (1976), the area "within 300 feet from the lines of all electric suppliers as such lines exist on the date of the assignments" constitutes a corridor through otherwise assigned territory, in which the customer has the right to choose suppliers. See, S.C. Code § 58-27-620(c) and (d).

S.C. Code § 58-27-620(1)(d)(iii) (1976) provides in part:

- (1) Every electric supplier shall have the right to serve:

If chosen by the consumer, any premises initially requiring electric service after July 1, 1969, ...

are located partially within three hundred feet of the lines of such electric supplier, as such lines exist on July 1, 1969, or as extended to serve consumers it has the right to serve or as acquired after that date, and partially within a service area assigned to another electric supplier pursuant to §58-27-640.

It is important to note that the statute does not state that corridors arise based upon lines as they appear on the "A Maps." Rather the statute specifically provides that corridors arise based on how "such lines exist on July 1, 1969. . . ." Thus, the issue before the Commission is not whether the Addie Graham line appeared on an "A-Map."

The issues are whether the Addie Graham line existed on July 1, 1969, and then whether the Walsh facility is within the 300-foot corridor emanating from that line, and then whether Walsh chose to receive service from Palmetto. SCE&G invites the Commission to disregard the statutory language to focus on whether a line appeared on a map, which the Commission declines to do. The principle of customer choice in corridors is well-established and controls here, as per the statute.

B. SCE&G Has Failed to Provide Persuasive Evidence That the Walsh Facility is Outside the Corridor Emanating From the Addie Graham Line.

SCE&G devoted considerable effort to establishing that a portion of the Addie Graham distribution line had been moved. Palmetto agrees that small portions of the distribution line have been moved over the years. However, the point at which Palmetto made the measurement to the Walsh facility has not moved since the line's inception in 1965. (Tr. p. 178, lines 24-25; p. 179, lines 1-3; p. 209, lines 12-14). Thus, there is no persuasive evidence that the Palmetto corridor does not exist as reflected on Exhibit 2 and as testified to by Palmetto.

C. The Fact That Palmetto Upgraded the Line From Single-Phase to Three-Phase Has No Legal Significance.

SCE&G also argues that Palmetto does not have corridor rights because it upgraded its line from single-phase to three-phase for purposes of serving Walsh. (The three-phase line runs along the same path as the previous single-phase line. Tr. p. 102, lines 6-8). We believe that the upgrading of the service in that manner does not destroy the original corridor right created under the Act. A contrary view is unacceptable, since, under SCE&G's theory, a provider having corridor rights would not have the right to

upgrade its lines to serve longstanding customers whose needs increase over the years, even if the customers were located wholly within the corridor. SCE&G would seem to argue that a provider upgrading its services would lose its corridor rights. This cannot be the case. If “changes” to a line robbed the line of its ability to maintain a corridor, all corridors would eventually disappear from existence, as some change is bound to occur sooner or later with 1969 lines.

D. There is No Authority to Support SCE&G’s Argument That the “A-Map” Constitutes a Binding Contract.

SCE&G asserted that the “A Map” is a binding agreement between the parties. SCE&G provides no authority for this unique proposal. While the “A Map” was certainly an attempt to set out on paper all the lines in the particular area, it is clear that the parties were unsuccessful in this instance. SCE&G states no persuasive reason why such a document should be viewed as a binding contract. Further, the South Carolina Supreme Court does not favor an interpretation of documents in a manner that contradicts the Territorial Assignment Act. In Duke Power Company v. The Public Service Commission of South Carolina, et al., 343 S.C. 554, 541 S.E. 2d 250 (2001), the Court held that an interpretation of a Commission Order which would be in conflict with the Territorial Assignment Act was improper. Similarly, an interpretation of an “A Map” that would remove corridor rights acquired as the result of the Territorial Assignment Act is not valid. We find that the “A Map” is not a binding agreement or contract. (See also discussion in Section I.B. above.)

E. Even If the “A-Map” is Viewed as a Contract, South Carolina Law Provides for Reformation of Erroneous Contracts and Discourages Perpetuation of Mistakes in Contracts.

South Carolina law provides a mechanism for correcting mistaken or incorrect agreements in many areas. For example, errors in deeds are routinely corrected. Sims v. Tyler, 276 S.C. 640, 281 S.E.2d 229 (1981); Gowdy v. Kelley, 185 S.C. 415, 194 S.E. 156 (1937); Scates v. Henderson, 44 S.C. 548, 22 S.E. 724 (1895). “It has long been the law of this State that where a written contract does not conform to the intention of the parties, equity will reform the contract.” Shaw v. Aetna Casualty & Surety Ins. Co., 274 S.C. 281, 285, 262 S.E.2d 903, 905 (1980). SCE&G contends that the purpose of the “A Map” was to depict all the lines in the area. If it failed to do so, then it must be corrected. George v. Empire Fire and Marine Ins. Co., 344 S.C. 582, 590, 545 S.E.2d 500, 508 (2001).

At the hearing SCE&G questioned whether the Palmetto line may have been left off the “A Map” by agreement or as part of some “customer swap.” However, no evidence that this occurred was advanced, and suggestions to this effect amount to mere speculation. (Mr. Upshaw testified that it was “possible,” but “highly unlikely,” that Palmetto had agreed to leaving its line off the map and that it would never have agreed to “swap” Mrs. Graham with SCE&G.) (Tr. p. 106, lines 10-13; p. 148, lines 10-20; p. 152, line 25; p. 153, lines 1-14). Moreover, it was pointed out that had the parties swapped, Palmetto would not have been serving Addie Graham. (Tr. p. 148, lines 18-20). Clearly, the evidence before the Commission illustrates that the parties did not swap the corridor, since Palmetto has maintained and served off the distribution line since 1965.

South Carolina law also recognizes the principle of waiver. Waiver has been defined as the intentional relinquishment of a known right and may be implied from the circumstances. Parker v. Parker, 313 S.C. 482, 443 S.E.2d 388 (1994); Steele v. Self Serve, Inc., 335 S.C. 323, 516 S.E.2d 674 (Ct. App. 1999). By its actions, SCE&G previously consented to Palmetto serving customers in the exact area that it now claims is SCE&G's exclusive assigned territory. While the Commission believes that SCE&G's Complaint must be denied for the other reasons set forth in this Order, SCE&G's case would still fail because by its conduct SCE&G waived any right to prevent Palmetto from providing service from the Addie Graham distribution line. See discussion, supra, at 7.

F. It Would be Contrary to Sound Public Policy to Allow an Erroneous "A-Map" to Deprive Customers of Their Statutory Right to Choose Suppliers Because of a Mistake.

It is clear from the record that the Addie Graham line was left off the "A Map" by mistake. Customers such as Walsh, and suppliers such as SCE&G and Palmetto, have a strong interest in the accuracy of "A Maps." It would be directly contrary to the public interest to allow decisions on service to be based upon incorrect maps. The aim is to make decisions based upon the facts presented to this Commission – not to perpetuate mistakes.

G. Motions to Strike

SCE&G has filed Motions to Strike certain portions of the testimony of Palmetto witnesses G. Thomas Upshaw and A. Berl Davis, Jr., based on the allegations that the testimony is cumulative, that it is presented by witnesses with no personal knowledge, and that the testimony is hearsay. We deny the Motions. The disputed testimony relates to

a conversation allegedly held between SCE&G witness Ackerman and Palmetto witness DuBose. SCE&G objects because of the witnesses' depiction of what was allegedly said by Mr. Ackerman.

Palmetto argued that the testimony is not hearsay, in that it goes to showing and establishing the mental state and present sense impressions of Upshaw and Davis at the time that they made a decision to pursue providing service to Walsh Fabrication. See South Carolina Rule of Evidence 803(3). Palmetto also argues that the testimony is not cumulative.

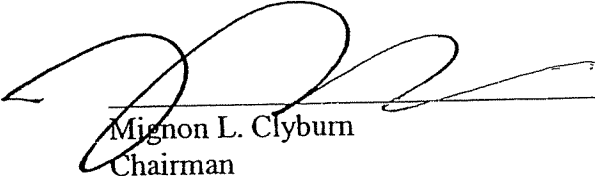
We agree with Palmetto that the testimony shows the mental state and present sense impressions of the two witnesses. We disagree with the argument that the evidence is cumulative. Finally, we disagree with the statement that the information is presented by witnesses with no personal knowledge. Obviously, both witnesses had knowledge of the conversation between Ackerman and DuBose. Accordingly, we deny the Motions to Strike. We will accept the testimony as part of the record in this case and give it whatever weight we determine to be appropriate.

CONCLUSION


After careful consideration of the entire record, the Commission rules that the service by Palmetto to the Walsh facility is permissible, that the Motions to Strike are denied, and that SCE&G's Complaint should be, and hereby is, denied and dismissed.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Mignon L. Clyburn
Chairman

ATTEST:



Bruce F. Duke
Deputy Executive Director

(SEAL)

SOUTH CAROLINA ELECTRIC & GAS COMPANY

POST OFFICE BOX 764

COLUMBIA, SOUTH CAROLINA 29202

XXXXXX 29218

July 12, 1974

C
Mr. James F. Bell, Director
System Planning
Aiken Electric Cooperative, Inc.
Post Office Box 417
Aiken, South Carolina 29801

Dear Jimmy:

O
At our meeting on July 10, you said that you had not received a copy of the agreement between the power companies and the electric cooperatives in South Carolina regarding certain principles, one of which has reference to corridor rights built solely to serve a single security light.

P
Y
Enclosed is a copy of a letter written by Bob Bennett indicating approval of the agreement by the S. C. Electric Cooperative Association, Inc. Also enclosed is a zerox copy of the agreement showing the initials of R. D. Bennett for the Cooperative Association, C. J. Fritz for SCE&G, John D. Hicks for Duke Power Co., and the signature of Sherwood Smith representing Carolina Power and Light Co.

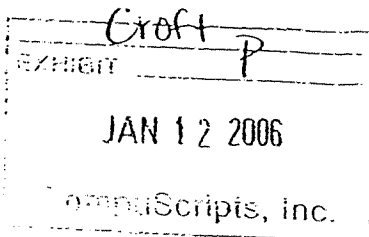
It is our understanding that the cooperatives, including Aiken Electric, have honored the agreement since the date of the Association's approval on November 10, 1971. SCE&G has likewise adhered to the five principles since that date. I hope this has clarified our company's position regarding the agreement.

If you have any further questions concerning the agreement or need additional copies, please let me know.

Sincerely yours,

Robert D. Hazel

Robert D. Hazel
Executive Assistant to the
Senior Vice Pres. - Admin.



RDB/ab

Encls. (2)

bc: Messrs. C.J. Fritz, G.H. Fischer, B.M. Smith, H.G. Boylston,
D.R. Tomlin, G.C. Croft, A.J. Perrone, J.H. Fowles

SCE&G

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The power companies and distribution electric cooperatives serving in South Carolina, desire to lessen areas of controversy pending area assignment by the Public Service Commission of South Carolina, have tentatively agreed to the following principles:

1. Corridor rights will not be asserted with respect to a line built solely to serve a single security light.
2. A line built to provide temporary service for construction of a premises shall not receive 300' corridor rights unless and until permanent service is rendered at the construction site. If permanent service is later rendered from the line at another site to premises which the supplier had a right to serve otherwise, then, up to the point of permanent service, the line shall receive normal corridor rights. Permanent service shall commence when the service wires of the electric supplier shall be connected to the permanent service entrance on the premises on request of the then legal titleholder of the premises or his authorized representative.
3. Tie lines, which are lines built not to serve customers but to connect two portions of an electric supplier's system, shall not receive corridor rights. Neither will such line be protected from service by another supplier within 300' of it nor may service be rendered from such line within 300' of another electric supplier's line. Lines built from a tie line to serve customers shall receive normal corridor rights from the point of connection with the tie line to the service drop of the customer.
4. The point from which the 300' corridor shall be measured shall be the conductor whether it be on a crossarm or on the pole.
5. The foregoing principles shall govern and control electric suppliers in South Carolina for all situations developing after the date final agreement upon the principles is reached.

Duke Power Company

JST Nov. 27, 1971

J. Carline, President
Wood H. Carline

12/30/71 SCE&C
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Nov. 10th, 1971

R.D.B.

ICEP
J.J. 11/23/71